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3 Including Professional Corporations
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10 Attorneys for Defendant
11 WELLS FARGO BANK, N.A.

FILED

2010 JUL 14 PM 2:00

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY _____ DEPUTY

12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

'10 CV 1467

JLS BGS

14 ROBERT R. MORENO, an
15 individual; and SUSAN A.
16 ADCOCK, an individual,

17 Plaintiffs,

18 v.

19 WELLS FARGO HOME MORTGAGE, aka
20 WELLS FARGO BANK, N.A.; FIRST
21 AMERICAN LOANSTAR TRUSTEE
22 SERVICES, LLC; and DOES 1-25,

23 Defendants.

CASE NO. _____

Complaint Filed: 06/14/10

DEFENDANT WELLS FARGO BANK,
N.A.'S NOTICE OF REMOVAL

[28 U.S.C. § 1441]

24 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

25 PLEASE TAKE NOTICE that defendant Wells Fargo Bank,
26 N.A. ("Wells Fargo"), with the consent of all other proper
27 defendants in this action, hereby removes to this Court the state
28 court action described below.

1. On June 14, 2010 plaintiffs Robert R. Moreno
("Moreno") and Susan A. Adcock ("Adcock," and together with
Moreno, "Plaintiffs") filed a civil action in the Superior Court
of the State of California, County of San Diego, North County

1 Division, Case No. 37-2010-00056256-CU-OR-NC, entitled Moreno v.
2 Wells Fargo Home Mortgage. A true and correct copy of
3 Plaintiffs' "Complaint to Enjoin Foreclosure, and for Declaratory
4 Relief and an Accounting; Memorandum of Points & Authorities;
5 Declaration of Susan A. Adcock; Declaration of Newell E. Cumming,
6 Esq." (the "Complaint"), with the accompanying "Summons," "Civil
7 Case Cover Sheet," and "Notice of Case Assignment," is attached
8 hereto as "Exhibit A."

9 2. Wells Fargo first received a copy of the Complaint
10 with corresponding Summons from the state court by registered
11 mail on June 23, 2010.

12 3. Additional notices and documents filed in the
13 state court and served on Wells Fargo include: "Notice of Ex
14 Parte Application for Temporary Restraining Order, Ex Parte
15 Application, Memorandum of Points and Authorities, Declarations
16 by Susan Adcock and Newell E. Cumming, Esq. and [Proposed] Order
17 to Show Cause and for Temporary Restraining Order"; "Memorandum
18 of Points & Authorities in Support of Temporary Restraining Order
19 and/or Preliminary Injunction"; "Declaration of Susan A. Adcock
20 in Support of Complaint for Temporary Restraining Order and
21 Preliminary Injunction"; "Declaration of Newell E. Cumming, Esq.
22 in Support of Complaint for Temporary Restraining Order and
23 Preliminary Injunction"; and "Order to Show Cause and Temporary
24 Restraining Order." True and correct copies of these documents,
25 as served on Wells Fargo, are attached hereto as "Exhibit B."

26 4. This is an action of which this Court would have
27 original jurisdiction under 28 U.S.C. § 1332(a), and which may be
28 removed to this Court pursuant to 28 U.S.C. § 1441(b), in that it

1 is a civil action between citizens of different states and the
2 matter in controversy exceeds \$75,000.00, exclusive of interest
3 and costs.

4 5. Wells Fargo is informed and believes, and on that
5 basis alleges, that Moreno was at the time of the filing of this
6 action, and still is, an individual domiciled in California, and
7 a citizen of California. Plaintiffs allege that Moreno "was, and
8 is, an individual residing in Valley Center, California, within
9 the County of San Diego." Comp. ¶ 1 at 2:1-2.

10 6. Wells Fargo is informed and believes, and on that
11 basis alleges, that Adcock was at the time of the filing of this
12 action, and still is, an individual domiciled in California, and
13 a citizen of California. Plaintiffs allege that Adcock "was, and
14 is, an individual residing in Valley Center, California, within
15 the County of San Diego." Comp. ¶ 1 at 2:4-5.

16 7. Wells Fargo was at the time of the filing of this
17 action, and still is, a national banking association chartered
18 under the laws of the United States. Wells Fargo is chartered,
19 and has its main office, in South Dakota.

20 8. "All national banking associations shall, for the
21 purposes of . . . actions by or against them, be deemed citizens
22 of the States in which they are respectively located." 28 U.S.C.
23 § 1348. A national bank is "located," for diversity jurisdiction
24 purposes, only in the state designated as its main office (and
25 not in every state where it has branch offices). See Wachovia
26 Bank v. Schmidt, 546 U.S. 303, 309-19 (2006).

27 9. Wells Fargo Home Mortgage is a division of Wells
28 Fargo Bank, N.A.

1 10. Wells Fargo is informed and believes, and on that
2 basis alleges, that defendant First American Loanstar Trustee
3 Services, LLC was at the time of the filing of this action, and
4 still is, a Texas limited liability company with its principal
5 place of business in Texas.

6 11. The Complaint includes as defendants "DOES 1-25."
7 Pursuant to 28 U.S.C. § 1441(a), the citizenship of fictitious
8 and unknown defendants is disregarded for purposes of removal.

9 12. Wells Fargo is informed and believes, and on that
10 basis alleges, that the amount in controversy in this action is
11 in excess of \$75,000. Plaintiffs' action concerns "a written
12 promissory note on the amount of vie-hundred and sixty-four
13 thousand (\$564,000.00)," Comp. ¶ 29 at 15:24-25, and Plaintiffs
14 seek to enjoin a foreclosure sale of the real property that
15 secures the residential mortgage loan evidenced by that note.

16 13. Plaintiffs also seek "an accounting . . . to
17 determine the amount that Plaintiffs actually owe" on their loan,
18 Comp. at 18:22-23, and "attorney fees and costs," Comp. at 18:26.

19 14. On the date of this Notice of Removal, a copy of
20 this Notice is being served on Garmo's attorney of record, and a
21 copy of this Notice is being filed in the state court action with
22 the Clerk of the Superior Court of the State of California,
23 County of San Diego, East County Division.

24 WHEREFORE, the above action now pending in the Superior
25 Court of the State of California, County of San Diego, North
26 County Division, Case No. 37-2010-00056256-CU-OR-NC, is removed
27 from said state court to this Court, and Wells Fargo prays that
28 this Court proceed in this action pursuant to 28 U.S.C. § 1447

1 and other relevant and applicable law, as if this action had been
2 originally filed in this Court, and that further proceedings in
3 the state court action be stayed in all respects.

4 DATED: July 14, 2010

5 SHEPPARD MULLIN RICHTER & HAMPTON LLP

6
7 By



8 ERIK S. BLISS

9 Attorneys for Defendant
10 WELLS FARGO BANK, N.A.

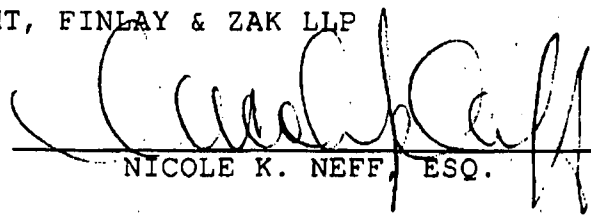
11 CONSENT TO REMOVAL

12 Defendant First American Loanstar Trustee Services,
13 LLC, by and through its counsel, hereby consents to the removal
14 of this action from the Superior Court of the State of
15 California, County of San Diego, North County Division to the
16 United States District Court for the district within which this
17 action is pending.

18 DATED: July 14, 2010

19 WRIGHT, FINLAY & ZAK LLP

20
21 By



22 NICOLE K. NEFF, ESQ.

23 Attorneys for Defendant
24 FIRST AMERICAN LOANSTAR TRUSTEE
25 SERVICES, LLC

EXHIBIT A

EX. A - PAGE 001

Newell E. Cumming, Esq. (SBN 89275)
LAW OFFICES OF NEWELL E. CUMMING
145 South Fig Street, Suite L
Escondido, CA 92025
Tel: 760-747-6600
Fax: 760-747-6644

Attorney for Plaintiffs Robert R. Moreno and Susan A. Adcock

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

NORTH COUNTY BRANCH

ROBERT R. MORENO, an individual, and
SUSAN A. ADCOCK, an individual;

Plaintiffs

vs.

WELLS FARGO HOME MORTGAGE, aka
WELLS FARGO BANK, N.A.; FIRST
AMERICAN LOANSTAR TRUSTEE
SERVICES, LLC; and DOES 1-25;

Defendants

Case No.

COMPLAINT TO ENJOIN
FORECLOSURE, AND FOR
DECLARATORY RELIEF AND
AN ACCOUNTING; MEMORANDUM OF
POINTS & AUTHORITIES,
DECLARATION OF SUSAN A. ADCOCK;
DECLARATION OF NEWELL E.
CUMMING, ESQ.

COME NOW Plaintiffs ROBERT R. MORENO and SUSAN A. ADCOCK, and complain
and allege as follows:

I. THE PARTIES

1. At all times relevant herein, Plaintiff ROBERT R. MORENO ("Plaintiffs" or

1 "MORENO") was, and is, an individual residing in Valley Center, California, within the County
2 of San Diego.

3 2. At all times relevant herein, Plaintiff SUSAN A. ADCOCK ("Plaintiffs" or
4 "ADCOCK") was, and is, an individual residing in Valley Center, California, within the County of
5 San Diego, and is the married spouse of MORENO.

6 3. At all times relevant herein, on information and belief, Defendant WELLS FARGO
7 BANK, N.A., aka WELLS FARGO HOME MORTGAGE ("Wells Fargo"), was, and is, a national
8 banking association authorized to engage in, and engaged in mortgage lending business within the
9 County of San Diego.
10

11 4. At all times relevant herein, on information and belief, Defendant FIRST
12 AMERICAN LOANSTAR TRUSTEE SERVICES, LLC ("First American") was, and is, the
13 current trustee of the underlying deed of trust.

14 5. Plaintiffs are unaware of the true names and capacities whether individual,
15 corporate, associate or otherwise of Defendants DOES 1 through 25, inclusive, and therefore sue
16 said Defendants by such fictitious names. Plaintiffs are informed and believe, and upon such
17 information and belief alleges, that each of said Defendants is/are responsible in some manner for
18 the events and happenings herein referred to, and proximately caused the damages to Plaintiffs, as
19 described herein. Whenever in this complaint any Defendants are the subject of any charging
20 allegation, it shall be deemed that said Defendants, DOES 1 through 25, inclusive, and each of
21 them, are likewise a subject of said charging allegations.
22

23 6. Plaintiffs are informed and believes, and upon such information and belief alleges
24
25
26

1 that at all times herein mentioned, each of the Defendants was the agent, servant and/or employee
 2 of the remaining Defendants, and, at all times herein mentioned, was acting within the course and
 3 scope of said agency and/or employment.

4 III. STATEMENT OF FACTS

5 7. Plaintiffs refer to and re-allege each and every allegation contained in Paragraphs 1.
 6 through 6. above, and by this reference incorporates, as though fully set forth herein, said
 7 Paragraphs.
 8

9 8. Beginning in early 2009, Plaintiffs began suffering a slow-down in the amount of
 10 business that they were doing in their automobile repair business located in Valley Center,
 11 California. Specifically, in July 2009 the Plaintiffs informed Wells Fargo that they were having
 12 trouble making the monthly mortgage payments because of a reduction in their income. The
 13 Plaintiffs also told Wells Fargo that they prefer to obtain a loan modification ("Loan
 14 Modification"), which would enable them to remain in their home, as they preferred. To that
 15 end, the Plaintiffs requested information from Wells Fargo about what Loan Modification options
 16 were available.
 17

18 9. In response to the Plaintiffs' request for information regarding loan modification,
 19 Wells Fargo responded by letter dated July 9, 2009, in which it was stated simply that "the request
 20 for loan modification has been denied" because the "request would be outside of your investor
 21 guidelines." A true and correct copy of this letter from Wells Fargo is attached hereto as Exhibit
 22 "A", and by this reference is incorporated into and made a part of this complaint. After receiving
 23 the July 9, 2009 response described above, Plaintiffs retained counsel ("Counsel") to assist with
 24 their efforts to obtain a Loan Modification. On or about July 20, 2009, the undersigned Counsel
 25

1 sent written notification to Wells Fargo advising the bank that the Plaintiffs had retained counsel
2 in this matter. A true and correct copy of this letter from Counsel to Wells Fargo is attached
3 hereto as Exhibit "B", and by this reference is incorporated into and made a part of this complaint.

4 10. For approximately two months after the above-described letter was sent by Counsel
5 advising Wells Fargo of the legal representation no response was received from the bank. In late
6 September 2009, a letter was received by Counsel from Wells Fargo. In the letter, dated
7 September 24, 2009, Wells Fargo confirmed that they are able to discuss the Plaintiffs' mortgage
8 loan with Counsel. However, after stating in the letter that Wells Fargo is providing information
9 regarding this matter, the letter goes on to state the following:
10

11 "Thank you for taking the time to write us regarding [the Plaintiffs'] situation and
12 the expected difficulties they face in keeping their loan current. Regrettably, only the
13 representatives in our Collections Department have the specialized training and authority
14 to establish workout arrangements. Due to the time sensitive nature of these
15 arrangements, Wells Fargo Home Mortgage requires that all workout options first be
16 discussed over the telephone with a Collections representative. Therefore, it is
17 imperative for you or the homeowners to call our Collections Department to determine
18 what options are available to assist you in preventing their loan from going farther into
19 default."

20 As explained below, upon receipt of this letter, which is attached hereto as Exhibit "C", and by this
21 reference is incorporated into and made a part of this complaint, Counsel began what would
22 become a lengthy and ultimately fruitless effort to have a substantive conversation with any Wells
23 Fargo representative regarding the options that may be available for a Loan Modification.

24 11. During the days immediately following receipt of the above-described September
25 24, 2009 letter from Wells Fargo (Exhibit "D"), Counsel contacted Wells Fargo and had several
26 telephone conversations with its representative. Although the Plaintiffs had already provided
27 Wells Fargo with the requested financial information before Counsel was retained, during the
28 telephone conversations between Counsel and Wells Fargo, updated financial information about

1 the Plaintiffs was requested by Wells Fargo. In response to Wells Fargo's request, Counsel
2 forwarded to the bank the requested information. As confirmed in Counsel's letter dated
3 October 14, 2009, the additional financial information regarding the Plaintiffs' monthly income
4 and expenses, and monthly account statements, was forwarded to Wells Fargo. A true and
5 correct copy of this letter from Counsel to Wells Fargo is attached hereto as Exhibit "D", and by
6 this reference is incorporated into and made a part of this complaint.

7
8 12. Approximately one month later, Plaintiffs received a letter from Wells Fargo dated
9 November 15, 2009. Unfortunately, the letter was a form-type letter which simply notified
10 Plaintiffs that they were past due in their mortgage payments. A true and correct copy of this
11 letter from Counsel to Wells Fargo is attached hereto as Exhibit "E", and by this reference is
12 incorporated into and made a part of this complaint. The next correspondence to be received by
13 Counsel from Wells Fargo was dated December 10, 2009, which was essentially the same letter as
14 sent by Wells Fargo on or about September 24, 2009 (Exhibit "C" above). In this letter, Wells
15 Fargo once again said that Counsel for Plaintiffs needs to contact Wells Fargo, although this letter
16 instructed that the Loss Mitigation/Collections be contacted, instead of the Collections
17 Department. A true and correct copy of this letter from Wells Fargo to Counsel is attached hereto
18 as Exhibit "F", and by this reference is incorporated into and made a part of this complaint. As
19 suggested by Wells Fargo in their letter, Counsel began another effort to have a substantive
20 discussion with a Wells Fargo representative who was knowledgeable about loan modifications.
21 On the date after Exhibit "F" was written by Wells Fargo, another letter was written on or about
22 December 11, 2009 to Counsel. In this letter, Wells Fargo stated the following:
23
24

25 "We were previously advised that the above referenced mortgagor has retained
26 your office to represent them. Please confirm that your office still represents the
27 mortgagor(s)."

1 A true and correct copy of this letter from Wells Fargo to Counsel is attached hereto as Exhibit
2 "G", and by this reference is incorporated into and made a part of this complaint.

3 13. After receipt of Wells Fargo's December 11, 2009 letter, Counsel contacted Wells
4 Fargo and talked to a "Natalie" in the Loss Mitigation Department on or about December 16,
5 2009. Similar to Wells Fargo's prior requests, Natalie said that the Plaintiffs would have to
6 again send the requested financial information. Natalie was unable to confirm whether Wells
7 Fargo had received the information previously sent by Counsel two months earlier in October
8 2009. Natalie also informed Counsel that Wells Fargo required (again) a signature from the
9 Plaintiffs confirming that Counsel does, indeed, represent the Plaintiffs. Pursuant to the requests
10 from Natalie, Counsel sent Wells Fargo a letter on or about December 21, 2009 with updated
11 financial information about the Plaintiffs, including copies of Plaintiffs' balance sheets, profit and
12 loss statements, and current pay stubs, as well as another signature by Moreno. In the letter's
13 conclusion, Counsel confirmed that Natalie had represented that after reviewing the enclosed
14 information Wells Fargo would contact Counsel to discuss the available Loan Modifications. A
15 true and correct copy of this letter from Counsel to Wells Fargo is attached hereto as Exhibit "H",
16 and by this reference is incorporated into and made a part of this complaint.
17

18 14. As of January 4, 2010, no response was received from Wells Fargo, and no effort
19 was made by Wells Fargo to contact Plaintiffs or their Counsel. Not having heard back from
20 Wells Fargo, Counsel sent the bank a follow-up letter. In his January 4 letter, Counsel expressed
21 the frustration with Wells Fargo's repeated requests for the same information, even after the
22 information had been submitted several times, and the failure of Wells Fargo to contact either
23 Plaintiffs or their Counsel. In the letter, Counsel wrote the following:
24
25

1 "Even after complying with Wells Fargo's repeated requests for the same
2 information, [Counsel] still has not been contacted by your bank so that a meaningful and
3 substantive discussion can be had to determine which loan modification options are
4 available to" Plaintiffs.

5 The letter concludes with the following statement:

6 "As such, it is imperative that Wells Fargo contact [Counsel] without delay so that
7 [the Plaintiffs] can determine what options are available to ensure that they remain in their
8 home."

9 A true and correct copy of this letter from Counsel to Wells Fargo is attached hereto as Exhibit
10 "I", and by this reference is incorporated into and made a part of this complaint.

11 15. Two days after Counsel sent his January 4, 2010 letter, another letter was received
12 from Wells Fargo, dated January 7, 2010. In this letter, which was sent to only the Plaintiffs,
13 Wells Fargo advised the Plaintiffs that their mortgage has been referred "to our attorney with
14 instructions to begin foreclosure proceedings." As is customary in such letters, Wells Fargo also
15 stated that the entire balance is due and payable to Wells Fargo. A true and correct copy of the
16 Wells Fargo letter dated January 7, 2010 is attached hereto as Exhibit "J", and by this reference is
17 incorporated into and made a part of this complaint. About one week later, Wells Fargo sent
18 another letter, dated January 15, 2010, which was essentially similar to the earlier form letters sent
19 by the bank. In this letter, Wells Fargo acknowledged that the Plaintiffs are in "active review
20 [sic] our Loss Mitigation/Collections department to determine which workout options are
21 available for the [Plaintiffs'] loan." Oddly, in the same letter, Wells Fargo also stated,
22 apparently in response to a prior letter from Counsel, that Wells Fargo would like to offer their
23 regrets that they "did not meet [Plaintiffs'] servicing expectations." Wells Fargo also noted in
24 this letter that "the review process may be time consuming and we thank you for your cooperation,
25 patience, and willingness to provide us with the necessary information to fully complete our
26

1 review." A true and correct copy of the Wells Fargo letter dated January 14, 2010 is attached
2 hereto as Exhibit "K", and by this reference is incorporated into and made a part of this complaint.

3 16. Notwithstanding numerous telephone and written communications to Wells Fargo
4 requesting the opportunity to discuss a Loan Modification, Plaintiffs received a Notice of Default
5 Declaration dated January 11, 2010 from First American LoanStar Trustee Services, LLC
6 ("LoanStar"), who is acting as Trustee on behalf of Wells Fargo. A true and correct copy of the
7 Notice of Default is attached hereto as Exhibit "L", and by this reference is incorporated into and
8 made a part of this complaint. In that Declaration, executed by a Wells Fargo representative, it is
9 represented that Wells Fargo has contacted my Clients to "explore options for the borrower to
10 avoid foreclosure", as required by California Civil Code §2923.5 *et seq.* and/ or has exercised "due
11 diligence to contact the borrower." However, that representation is not true, and neither of these
12 pre-conditions has been met by Wells Fargo, as confirmed by Counsel's numerous prior
13 communications to Defendants. Notwithstanding the repeated efforts by Plaintiffs and their
14 Counsel, Wells Fargo has never provided any specific information regarding what loan
15 modification(s) may be available to the Plaintiffs. Instead, the only communications from
16 Wells Fargo were the repeated requests for the same financial information, which has been
17 provided to Wells Fargo at least three times.

20 17. On or about January 26, 2010, Wells Fargo caused to be recorded a Notice of
21 Default and of Election to Sell to be recorded in the Official Records of the County of San Diego,
22 California, alleging (a) that a breach of the obligation secured by the deed of trust had occurred,
23 consisting of Plaintiffs' alleged failure to make timely mortgage payments, and stating that the
24 Defendant, as beneficiary, is electing to sell, or cause to be sold, the trust property to satisfy that
25 obligation.

18. After receiving a copy of the Notice of Default, Counsel again wrote to Wells Fargo in a letter dated February 9, 2010. In this letter, Counsel again advised Wells Fargo that it is the Plaintiffs' desire to explore what loan workout options may be available. Counsel also again stated that the Plaintiffs very much want to remain in their home, and it is for that reason that Counsel was retained to attempt to facilitate a loan modification that would be acceptable to both parties, and which would enable these homeowners to remain in their home. To further emphasize the efforts Plaintiffs were making to work out an arrangement that would allow them to keep their home, Counsel reminded Wells Fargo that over a period of more than seven months numerous letters have been written requesting a meaningful discussion regarding Loan Modification options for the Plaintiffs. In his February 9 letter, Counsel noted that he had already written letters to Wells Fargo on July 20, 2009, July 29, 2009, September 11, 2009, October 14, 2009, November 23, 2009, December 21, 2009, and January 4, 2010. Counsel further referenced the various telephone discussions Counsel had with different Wells Fargo representatives. For example, as describe above, on or about December 16, 2009 Counsel talked to a Natalie in Wells Fargo's your bank's Loss Mitigation/Collections Department. During the conversation with her, Counsel was told that after Wells Fargo receives the additional information requested, Plaintiffs will be contacted with information about the possible types of mortgage modifications. However, even after months of effort by Plaintiffs and their Counsel, Wells Fargo has never provided information about what specific types of Loan Modifications may be available to the Plaintiffs. Given the failure of Wells Fargo to properly respond to the Plaintiffs requests for Loan Modification options, Wells Fargo appears to be engaged in acts of bad faith by their failure to deal with Plaintiffs in good faith and fair dealing. This fact became apparent when Plaintiffs received the Notice of Default without any meaningful effort by Defendants to discuss a

1 loan workout. In his February 9 letter, Counsel also advised Wells Fargo that because of its
2 failure to explore in good faith any loan modification possibilities, it is the intention of Plaintiffs to
3 seek injunctive relief against Wells Fargo if the underlying default is pursued by Defendants
4 without determining what loan modifications options may be available to Plaintiffs.
5 Notwithstanding this notification to Wells Fargo, the Defendants have still not provided any
6 meaningful discussion regarding this subject. A true and correct copy of Counsel's February 9,
7 2010 letter to Wells Fargo is attached hereto as Exhibit "M", and by this reference is incorporated
8 into and made a part of this complaint.
9

10 19. Following Counsel's February 9, 2010 letter described above, Plaintiffs received
11 additional letters from Wells Fargo. One of these letters, dated March 1, 2010, Wells Fargo
12 thanked the Plaintiffs (i.e. their Counsel) for "taking the time to speak with us today." The letter
13 went on to say that Wells Fargo values the Plaintiffs as customers, but needs "additional financial
14 information to determine what option is best suited for [Plaintiffs'] situation." Wells Fargo also
15 sent another letter, of the same March 1, 2020 date. This letter was identical to earlier Wells
16 Fargo letters wherein it was stated that the Plaintiffs information has been forwarded to the Loss
17 Mitigation/Collections department for their review. A third letter, also dated March 1, 2010,
18 was sent by LoanStar confirming that the information sent by Plaintiffs has been forwarded to
19 Wells Fargo for "review and response." True and correct copies of these three letters from
20 Defendants are collectively attached hereto as Exhibit "N", and by this reference is incorporated
21 into and made a part of this complaint.
22
23

24 20. On the same date as the letters in Exhibit "N" were written by Defendants, Counsel
25 for Plaintiffs talked by telephone to several Wells Fargo representatives. One of these
26 representatives, Heather Duffy, advised Counsel that her records indicated that the Plaintiffs'

request for a Loan Modification is "not in active review at this time." Ms. Duffy was unable to explain why this was so. In an effort to learn why the Plaintiffs' request for a Loan Modification was not being actively reviewed, Counsel also talked to two other Wells Fargo representatives. One of these individuals, by the name of Linda, was in Wells Fargo's Loss Mitigation/Collections Department. Linda stated that she was not sure why the Plaintiffs' request was not in active review. In another telephone conversation with a third Wells Fargo individual, by the name of Kris, Counsel was advised that the Loan Modification requests can sometimes take up to sixty (60) days. Counsel informed this individual that the Plaintiffs efforts had actually been ongoing for many months, but nothing further of help was offered during the conversation.

21. After Counsel's efforts to have a telephone conversation with a Wells Fargo representative who could be of assistance, at least in advising the Plaintiffs of the status of their request for a Loan Modification, a letter dated March 15, 2010 was received by Plaintiffs. In this letter, Wells Fargo stated the following:

"Unfortunately, after carefully reviewing the information you provided, we are unable to adjust the terms of your mortgage. This decision was made because you did not provide us with all the information needed within the time frame required per your initial trial modification period workout plan. For that reason, you have not been approved for a mortgage loan modification."

In that Plaintiffs have never been offered by Wells Fargo any information regarding a "trial modification period workout plan," it is unclear as to what this reference by Defendants refers. A true and correct copy of this letter from Wells Fargo is attached hereto as Exhibit "O", and by this reference is incorporated into and made a part of this complaint.

22. About one month after the Wells Fargo letter of March 15, Counsel received another letter from Defendants, this one dated April 16, 2010. In this letter, Wells Fargo states that they "were previously advised that the above referenced mortgagor has retained your office to

1 represent them." The letter that asks that Counsel "confirm that your office still represents the
2 mortgagor(s), which Counsel did do. Shortly after receiving this letter, Plaintiffs received
3 Wells Fargo's Notice of Trustee's Sale, dated April 27, 2010. A true and correct copy of this
4 letter from Wells Fargo is attached hereto as Exhibit "P", and by this reference is incorporated into
5 and made a part of this complaint.

6 23. In spite of Plaintiffs' efforts to discuss with Defendants a possible loan workout
7 plan, Defendants issued a Notice of Trustee's Sale dated April 27, 2010. This Notice states that
8 the Plaintiffs' home will be sold at public auction on May 17, 2010 at 10:00 a.m. at the San Diego
9 County Courthouse. A true and correct copy of this Notice of Trustee's Sale is attached hereto as
10 Exhibit "P", and by this reference is incorporated into and made a part of this complaint.

12 24. Upon receiving the Notice of Sale, Counsel sent a letter to Wells Fargo and
13 LoanStar, on or about May 6, 2010, advising them of my clients' intention to seek a temporary
14 restraining order and/or preliminary injunction to stop the intended sale. Included with the letter
15 was a copy of Plaintiffs' complaint and relating filings. A true and correct copy of Counsel's letter
16 is attached hereto as Exhibit "Q", and by this reference is incorporated into and made a part of this
17 complaint. In response to this letter, a Lisa Spikech ("Spikech") from LoanStar sent an email
18 dated May 10, 2010 stating that the Sale was being "postponed for two weeks for Wells Fargo to
19 review the complaint in regards to the loan modification." The communication from Spikech
20 also stated that the sale was being "postponed to 6/01/10 ...with the understanding that Wells
21 Fargo will provide an update no later than 5/26/10 and if they do not, you will need to take action
22 in the filing of the Ex Parte application for [sic] TRO. Thank you for your consideration in not
23 filing the Ex Parte for TRO today." A true and correct copy of this communication from
24
25
26

1 LoanStar is attached hereto as Exhibit "R", and by this reference is incorporated into and made a
2 part of this complaint.

3 25. After receiving the email included as Exhibit "R" from LoanStar, Counsel heard
4 nothing further from either Wells Fargo or LoanStar until Counsel began attempts to find out the
5 status of Wells Fargo's "review of the complaint in regards to the loan modification." Finally,
6 after leaving several telephone messages, Counsel received an email from Spikech dated June 3,
7 2010 stating that the Sale was scheduled for June 15, 2010 "per the client [i.e. Wells Fargo] to
8 allow time for review of the file." A true and correct copy of this communication from
9 LoanStar is attached hereto as part of Exhibit "R", and by this reference is incorporated into and
10 made a part of this complaint. In response to this LoanStar communication, Counsel sent an
11 email to Spikech the same day, June 3. In that communication advised Spikech that Counsel
12 would in Atlanta, Georgia on other business until the evening of June 14, the day before the
13 scheduled Sale, and was therefore requesting a further postponement of the Sale. A copy of
14 Counsel's follow-up request to LoanStar is also included within this Exhibit.
15

16 26. As has repeatedly occurred, as the days grew closer to the scheduled June 15 Sale
17 date approached, Counsel again attempted to learn what Wells Fargo's review had determined and
18 what was the intention of that defendant regarding the upcoming Sale. After not hearing
19 anything back from either LoanStar or Wells Fargo, Counsel sent a follow-up email on or about
20 June 8, 2010 asking about the status of this matter. In this communication, Counsel advised
21 Spikech that nothing had been heard by Plaintiffs, and reminding Spikech of Counsel's conflicting
22 trip to Atlanta. In response to Counsel's inquiry, Spikech wrote via email also dated June 3,
23 2010 that
24

25 ///
26

1 "At this time, I do not have any updates to offer you. As of today, the sale is scheduled
2 for 06/15/10 at 10:00 a.m. I would like to be able to provide something, but they [i.e.,
3 Wells Fargo] have also made some changes and the contacts that I had have been
4 transferred to other areas."

5 Apparently, LoanStar, in its role as Wells Fargo's trustee, has had as much difficulty getting
6 responses from Wells Fargo as had the undersigned Counsel. As the date of Counsel's trip out
7 of town neared, additional efforts were made to postpone the Sale. As a result of my insistence,
8 Spikech made further efforts to contact Wells Fargo. As a follow-up communication, Spikech
9 wrote to Counsel that she had "spoke to Vanessa at Wells Fargo in regards to any contact from the
10 debtor. She claims that the debtor has not contacted them, but they do have an LOA to speak
11 with you [i.e., Counsel]. In order to request a postponement of a sale for a loan modification,
12 you or your client will need to contact them at [telephone number] for any resolution." Counsel
13 went to Atlanta the next day, June 9. In between Counsel's meetings and work regarding other
14 clients, Counsel made numerous telephone calls to Wells Fargo using the suggested number, and
15 spoke to three different individuals. Each of these persons said either they did not have the
16 authority to postpone the Sale and/or they would need to see updated financials from the Plaintiffs
17 to consider a postponement of the Sale. By the conclusion of these out-of-town telephone
18 conversations, Counsel came to the realization that after months and months of effort in this
19 matter, Counsel was continuing to experience the same dead-ends and unsuccessful efforts get
20 Wells Fargo to provide a substantive discussion with the Plaintiffs regarding about what loan
21 modification options, if any, may be available to them. As a final effort to avoid asking for the
22 Court's assistance, Counsel attempted to contact Spikech on the morning of June 14, 2010, but
23 could only leave a telephone message asking for updated status in this matter.
24
25
26

27. In view of the repeated failure of Wells Fargo to properly respond in good faith to my Clients' ongoing efforts regarding loan modification options, Wells Fargo has been engaged in acts of bad faith. After almost ten (10) months of efforts by the Plaintiffs, and then by their Counsel, Wells Fargo has never provided Plaintiffs with information about possible types of loan modifications. In the Notice of Default Declaration referenced above, a Wells Fargo representative states that the bank has contacted Plaintiffs to "explore options for the borrower to avoid foreclosure", as required by California Civil Code §2923.5 *et seq.* and/ or has exercised "due diligence to contact the borrower." Wells Fargo has done neither of these. As a result, Plaintiffs are now asking, via this complaint and related filings, for the Court's assistance. In filing this complaint, Plaintiffs acknowledge that the Defendants are not obligated to provide a Loan Modification that is unreasonable, or unfair to either Wells Fargo or the Plaintiffs. However, Defendants are obligated, and required by law, to act in good faith and fair dealing with regard to Plaintiffs' request for information about possible loan workout options.

III. CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Declaratory Relief by Plaintiffs against All Defendants)

28. Plaintiffs refer to and re-allege each and every allegation contained in Paragraphs 1 through 27. above, and by this reference incorporates, as though fully set forth herein, said Paragraphs.

29. On or about October 27, 2006, for valuable consideration, Plaintiffs, as borrowers, made, executed and delivered to defendant Wells Fargo Bank, N.A., a written promissory note in the amount of five-hundred and sixty-four thousand (\$564,000.00). A copy of the promissory note is attached hereto as Exhibit "P", and by this reference is incorporated into and made a part of

1 this complaint.

2 30. To secure payment of principal sum and interest as provided in the note and as part
3 of the same transaction, Plaintiffs, as trustors, executed and delivered to defendant Wells Fargo
4 Bank N.A. as beneficiary, a deed of trust dated October 26, 2006, by terms of which the Plaintiffs,
5 as trustors, conveyed to defendant Wells Fargo Bank N.A., as trustee, the real property described
6 in the attachment within Exhibit "P". On November 9, 2006 the deed of trust was recorded
7 against the subject property in the official Records of the County of San Diego, California. A
8 true and correct copy of the Deed of Trust is also included within Exhibit "P".
9

10 31. On or about January 26, 2010, defendant Wells Fargo Bank N.A. caused to be
11 recorded a Notice of Default and of Election to Sell in the Official Records of the County of San
12 Diego, California, alleging (a) that a breach of the obligation secured by the deed of trust had
13 occurred, consisting of Plaintiffs' alleged failure to make timely mortgage payments, and stating
14 that the Defendant, as beneficiary, is electing to sell, or cause to be sold, the trust property to
15 satisfy that obligation. A true and correct copy of this Notice of Default is attached hereto as
16 Exhibit "Q", and by this reference is incorporated into and made a part of this complaint.
17

18 32. In spite of Plaintiffs' efforts to discuss with Defendants a possible loan workout
19 plan, Defendants issued a Notice of Trustee's Sale dated April 27, 2010. This Notice states that
20 the Plaintiffs' home will be sold at public auction on May 17, 2010 at 10:00 a.m. at the San Diego
21 County Courthouse. A true and correct copy of this Notice of Trustee's Sale is attached hereto as
22 Exhibit "R", and by this reference is incorporated into and made a part of this complaint.
23

24 33. A breach of the obligation for which the deed of trust is security has occurred by
25 virtue of the failure by Wells Fargo and LoanStar to act in good faith and fair dealing with regard
26 to Plaintiffs' efforts to obtain a loan modification. This breach by Wells Fargo is based upon that
27

1 Defendant's failure to provide information and/or the opportunity to learn what loan modification
2 programs may be available to Plaintiffs. As a result, an actual controversy exists between
3 Plaintiff and Defendants concerning their respective rights and duties pertaining to the subject
4 property and the described transactions in that Plaintiffs allege that Defendants breached their duty
5 of good faith and fair dealing.

6 **SECOND CAUSE OF ACTION**

7 **(Injunctive Relief by Plaintiffs Against All Defendants)**

8
9 34. Plaintiffs refer to and re-allege each and every allegation contained in Paragraphs 1.
10 through 33. above, and by this reference incorporates, as though fully set forth herein, said
11 Paragraphs.

12 35. Plaintiffs desire a judicial determination and declaration of Plaintiffs' and
13 Defendant's respective rights and duties; specifically, that the Defendants failed to cooperate with
14 Plaintiffs with regard to consideration of a possible loan modification that would prevent
15 Plaintiffs' home from being sold at a foreclosure sale. Such a declaration is appropriate at this
16 time so that the Plaintiffs may determine their rights and duties before the subject property is sold
17 by Defendants.

18 36. Defendants intend to sell, and unless restrained will sell or cause to be sold the
19 subject property, all to plaintiff's great and irreparable injury in that Defendants have given notice
20 that the trustee sale of the property will take place on May 17, 2010 at 10:00 a.m. If the sale
21 takes place as scheduled, Plaintiffs will have no right to redeem the subject property from the sale,
22 causing them to forfeit their home.

23 37. The scheduled sale is wrongful and should be enjoined by virtue of the facts
24 alleged in the above paragraphs. Plaintiffs have no other plain, speedy, or adequate remedy, and
25 the injunctive relief prayed for below is necessary and appropriate at this time to prevent
26

1 irreparable loss to Plaintiffs' interests.

2
3 THIRD CAUSE OF ACTION

4 (Accounting by Plaintiffs Against All Defendants)

5 38. Plaintiffs refer to and re-allege each and every allegation contained in Paragraphs
6 1. through 37. above, and by this reference incorporates, as though fully set forth herein, said
7 Paragraphs.

8 39. The amount of money Plaintiffs owe to Defendants is uncertain to Plaintiffs and
9 cannot be determined without and accounting.

10 WHEREFORE, Plaintiffs demand judgment as follows:

11 1. That the Court issue a declaration of the rights and duties of the parties; specifically
12 whether Defendants committed, among other wrongs, a breach of the duty of good faith and fair
13 dealing, as imposed by California law, as well as Defendants failure to adhere to their own
14 procedures regarding Plaintiffs' request for information regarding a loan modification.

15 2. That the Court issue a temporary restraining order, and a preliminary injunction,
16 restraining Defendants Wells Fargo Bank, N.A. and First American LoanStar Trustee Services,
17 LLC, and their agents, attorneys, successors, and representatives and all persons acting in concert
18 or participating with them, from selling, attempting to sell, or causing to be sold the subject
19 property either under the power of sale in the deed of trust or by foreclosure action.

20 3. That the Court render an accounting between Plaintiffs and Defendants Wells
21 Fargo Bank, N.A. and LoanStar to determine the amount that Plaintiffs actually owe to
22 Defendants.

23 4. That Plaintiffs recover reasonable attorney fees and costs incurred in this action,
24
25

26 -18-

1 and that the Court award all other appropriate relief.

2 DATED: June 17, 2010

LAW OFFICES OF NEWELL E. CUMMING

3
4 By: 

5 Newell E. Cumming, Esq.

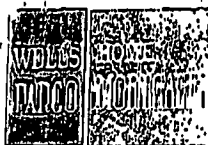
6 Attorney for Plaintiffs Robert R. Moreno and
7 Susan A. Adcock

Jul 16 09 01:41p

Susie Adcock

7607493004

P.2



Return Mail Operations

P.O. Box 10368

Des Moines, IA 50306-0368

July 09, 2009

012100 1 AT 0.357 4100/012100/007385 043 02 AC034F LC176 704

Robert R Moreno

Susan A Adcock

PO Box 1410

Valley Center CA 92082-1410



Dear Robert R Moreno & Susan A Adcock :

RE: Loan Number 0069780674, Client 708

After reviewing the information you provided, we must advise you your request for Loan Modification has been denied for the following reason(s):

This request would be outside of your investor guidelines.

There may be other alternatives that will assist you but are contingent upon agency investor approval. They are, but may not be limited to:

Pre-Foreclosure Sale: Requires the sale of your home in order to satisfy the mortgage/deed of trust. Deed in Lieu of Foreclosure: voluntarily transfers the interest in your property to Wells Fargo Home Mortgage.

If you would like to discuss this decision or would like to consider other options, please call us at (800) 848-9862, Monday through Friday, 8 AM to 8 PM, Central Time.

Exhibit "A"

EX. A - PAGE 021

Jul 16 09 01:42p

Susie Adcock

7607493004

p.3

For additional assistance, you may also call Consumer Credit Counseling Services at (800) 569-4287.

Sincerely,

Borrower Counseling Services

Wells Fargo Bank, N A is required by the Fair Debt Collection Practices Act to inform you that if your loan is currently delinquent or in default, as your loan servicer, we will be attempting to collect a debt, and any information obtained will be used for that purpose. However, if you have received a discharge, and the loan was not reaffirmed in the bankruptcy case, Wells Fargo Bank, N A will only exercise its right as against the property and is not attempting any act to collect the discharge debt from you personally.



EX. A - PAGE 022

Jul 16 09 01:41p

Susie Adcock

7607493004

p.1

July 16th, 2009

To: Newell Cumming

From: Robert Moreno

Re: Denial letter from Wells Fargo

The following two pages are the denial letter from Wells Fargo. As per your request, I am faxing them to you. After you have looked at them, please call so I know what the next step will be. As always, I appreciate your knowledge and counsel.

Respectfully,

Robert Moreno

RM:sa

JUL 21 09 12:13P

SUSIE MADCOCK

1007755007

P. 1

LAW OFFICES OF NEWELL E. CUMMING

145 SOUTH FIS STREET, SUITE L
ESCONDIDO, CA 92026

TEL: (760) 747-6550
FAX: (760) 747-6344

NECLAW@ESCDLOCAL.NET

CALIFORNIA • NEVADA • GEORGIA

VIA FACSIMILE (866) 917-1877 AND U.S. MAIL

July 20, 2009

Wells Fargo Home Mortgage
P.O. Box 10368
Des Moines, IA 50306-0368

Re: Loan No. 0069780674
Robert R. Moreno and Susan A. Adcock

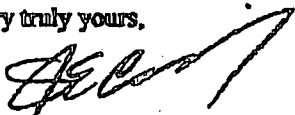
Dear Sir/Madam:

My office represents Robert R. Moreno and Susan A. Adcock ("Client") with regard to their efforts to modify the above-referenced home mortgage loan with Wells Fargo Home Mortgage.

Please accept this letter as a follow-up to my telephone conversation yesterday with an individual in Wells Fargo's Loan Modification Department. The individual I spoke with indicated that upon the receipt of an authorization signed by my Client, Wells Fargo will be able to fully discuss this matter directly with me.

As confirmed by Mr. Moreno's signature below, Wells Fargo is authorized to speak with me directly on behalf of my Client with regard to all matters relating to the above-referenced loan, and my Client's efforts to modify it. I look forward to working with Wells Fargo to resolve this matter in a mutually acceptable manner.

Very truly yours,



Newell E. Cumming, Esq.
NEC:pm

As confirmed by my signature below, Newell E. Cumming, Esq. is authorized to fully represent me and my wife Susan A. Adcock with regard to the above-referenced matter, and Wells Fargo may discuss with Mr. Cumming any and all matters relating thereto.

Dated: 7/21/09


Robert R. Moreno

Exhibit "B"

EX. A - PAGE 024

7-1

Newell

JUL 21 09 12:13P

LAW OFFICES OF NEWELL E. CUMMING

145 SOUTH FIG STREET, SUITE L
ESCONDIDO, CA 92025

TEL: (760) 747-6600
FAX: (760) 747-6644

NECLAW@SBCGLOBAL.NET

CALIFORNIA • NEVADA • GEORGIA

FAX

To:	Wells Fargo Home Mortgage	DATE:	July 21, 2009
------------	---------------------------	--------------	---------------

FIRM/CO:		NO. OF PGS:	2 inc. cover sheet
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RE:	Letter of authorization re. Robert Moreno	FAX NO:	(866) 917-1877
------------	---	----------------	----------------

To Whom It May Concern:

Following this cover sheet is a copy of a signed letter from my clients, Robert M. Moreno and Susan A. Adcock, authorizing Wells Fargo Home Mortgage to discuss with me any and all matters relating to my clients' efforts to modify their home mortgage loan with Wells Fargo Home Mortgage.

I have been advised by Wells Fargo that upon receipt of my client's written authorization, your bank's Loan Modification Department will be able to discuss this matter.

Newell E. Cumming, Esq.
(760) 747-6600

UNLESS OTHERWISE INDICATED OR OBVIOUS FROM THE NATURE OF THIS TRANSMITTAL, THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL, AND INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR OR ARE NOT CERTAIN WHETHER IT IS PRIVILEGED, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE AT OUR EXPENSE. THANK YOU.

HP Officejet J4500 All-in-One s

Fax Log for
Newell Cumming
7607476644
Jul 21 2009 2:25PM

Last Transaction

Date	Time	Type	Station ID	Duration	Pages	Result
Jul 21	2:24PM	Fax Sent	18669171877	1:18	2	OK

Note:

Image on Fax Send Report is set to Off

An Image of page 1 will appear here for faxes that are sent as Scan and Fax.



Wells Fargo Home Mortgage
MAC X2302-019
1 Home Campus



September 24, 2009

Newell E. Cumming
Law Offices of Newell E. Cumming
145 South Fig Street, Suite L
Escondido, CA 92025

Dear Newell E. Cumming:

RE: Robert R. Moreno and Susan A. Adcock
Loan Number 708-0069780674

Wells Fargo Home Mortgage (WFHM) received correspondence regarding the above referenced mortgage loan. Due to your legal representation of our borrower(s), I am able to respond directly to you. I have reviewed the information presented and would like to provide you with the details of my research.

Thank you for taking the time to write us regarding their situation and the expected difficulties they face in keeping their loan current. Regrettably, only the representatives in our Collections Department have the specialized training and authority to establish workout arrangements. Due to the time sensitive nature of these arrangements, Wells Fargo Home Mortgage requires that all workout options first be discussed over the telephone with a Collections representative. Therefore, it is imperative for you or the homeowners to call our Collections Department to determine what options are available to assist you in preventing their loan from going further into default.

You may contact the Collections Department at (800) 678-7986. A representative is available to assist you Monday through Friday, 7:00 a.m. to 9:30 p.m.; and Saturday, 8:00 a.m. to 2:00 p.m., Central Time. Please be prepared to provide financial information, which may include information from their paystub or Federal Tax Return.

Wells Fargo Home Mortgage is committed to serving the needs of our customers. If you have any additional questions or need clarification regarding the information provided, please call us toll-free at (877) 501-0871, extension 46674. I am available to assist you Monday through Friday, 6:30 a.m. to 3:00 p.m., Central Time.

Sincerely,

A handwritten signature, likely of Andrew Mitchell, consisting of a stylized 'A' and 'M'.

Andrew Mitchell
Written Customer Contact

Exhibit "C"

Authorized users may also access loan information.
Representatives are available for assistance Monday through Friday, 9 a.m. to 5 p.m., Central Time.

PC003/lg3/ge123942

1.
EX. A - PAGE 027

Wells Fargo Home Mortgage
is a division of Wells Fargo Bank, N.A.

LAW OFFICES OF NEWELL E. CUMMING

145 SOUTH FIG STREET, SUITE L
ESCONDIDO, CA 92025

TEL: (760) 747-6600
FAX: (760) 747-6644

NECLAW@SBCGLOBAL.NET

CALIFORNIA • NEVADA • GEORGIA

VIA FACSIMILE (866-917-1877) AND U.S. MAIL

October 14, 2009

Wells Fargo Home Mortgage
P.O. Box 10368
Des Moines, IA 50306-0368

Re: Loan No. 0069780674
Robert R. Moreno and Susan A. Adcock

Dear Sir/Madam:

As Wells Fargo Home Mortgage already knows, my office represents Robert R. Moreno and Susan A. Adcock ("Clients") with regard to their efforts to modify the above-referenced residential mortgage loan with Wells Fargo Home Mortgage ("Wells Fargo").

Your bank has already been advised that my Clients' income has been significantly reduced because of a slow-down in the amount of business Mr. Moreno's company, Automotive Specialists, has been doing during this past year. The Moreno's financial resources have now been depleted to the point where their ability to continue making the monthly mortgage payments is threatened. The good news regarding this, however, is that my Clients prefer, if possible, to work out a modification with Wells Fargo that would enable them to remain in their home, as opposed to walking away from the property, as so many other homeowners are choosing to do.

As part of my effort on behalf of my clients to have their mortgage payments reduced to a manageable amount, I have had several telephone discussions with Wells Fargo representatives. During my last such discussion, I was requested to provide your bank with additional financial information about my Clients. Specifically, Wells Fargo asked for detailed information regarding my Clients' monthly income and expenses. Attached to this letter is the requested information, including a summary of those amounts, with a listing of the Moreno's specific monthly expenses.

After Wells Fargo has had an opportunity to review the enclosed information, please contact the undersigned to discuss what options are available to my clients to assist them during this very difficult period. Thank you.

Very truly yours,

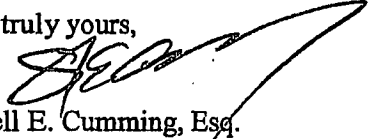

Newell E. Cumming, Esq.
NEC:pm

Exhibit "D"

cc: Robert Moreno

LAW OFFICES OF NEWELL E. CUMMING

145 SOUTH FIG STREET, SUITE L
ESCONDIDO, CA 92025

TEL: (760) 747-6600
FAX: (760) 747-6644

NECLAW@SBCGLOBAL.NET

CALIFORNIA • NEVADA • GEORGIA

FAX

To: Wells Fargo Home Mortgage

DATE: October 14, 2009

FIRM/Co:

No. of Pgs: 3 inc. cover sheet

RE: Loan No. 0069780674
Robert Moreno & Susan Adcock

FAX NO: (866) 917-1877

Please see following letter and attachment.

UNLESS OTHERWISE INDICATED OR OBVIOUS FROM THE NATURE OF THIS TRANSMITTAL, THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL, AND INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR OR ARE NOT CERTAIN WHETHER IT IS PRIVILEGED, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE AT OUR EXPENSE. THANK YOU.

LAW OFFICES OF NEWELL E. CUMMING

145 SOUTH FIG STREET, SUITE L
ESCONDIDO, CA 92025

TEL: (760) 747-6600
FAX: (760) 747-6644

NECLAW@SBCGLOBAL.NET

CALIFORNIA • NEVADA • GEORGIA

VIA FACSIMILE (866-917-1877) AND U.S. MAIL

October 14, 2009

Wells Fargo Home Mortgage
P.O. Box 10368
Des Moines, IA 50306-0368

Re: Loan No. 0069780674
Robert R. Moreno and Susan A. Adcock

Dear Sir/Madam:

As Wells Fargo Home Mortgage already knows, my office represents Robert R. Moreno and Susan A. Adcock ("Clients") with regard to their efforts to modify the above-referenced residential mortgage loan with Wells Fargo Home Mortgage ("Wells Fargo").

Your bank has already been advised that my Clients' income has been significantly reduced because of a slow-down in the amount of business Mr. Moreno's company, Automotive Specialists, has been doing during this past year. The Moreno's financial resources have now been depleted to the point where their ability to continue making the monthly mortgage payments is threatened. The good news regarding this, however, is that my Clients prefer, if possible, to work out a modification with Wells Fargo that would enable them to remain in their home, as opposed to walking away from the property, as so many other homeowners are choosing to do.

As part of my effort on behalf of my clients to have their mortgage payments reduced to a manageable amount, I have had several telephone discussions with Wells Fargo representatives. During my last such discussion, I was requested to provide your bank with additional financial information about my Clients. Specifically, Wells Fargo asked for detailed information regarding my Clients' monthly income and expenses. Attached to this letter is the requested information, including a summary of those amounts, with a listing of the Moreno's specific monthly expenses.

After Wells Fargo has had an opportunity to review the enclosed information, please contact the undersigned to discuss what options are available to my clients to assist them during this very difficult period. Thank you.

Very truly yours,

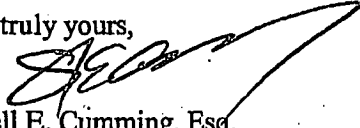

Newell E. Cumming, Esq.
NEC:pm

Exhibit "D"

cc: Robert Moreno

LAW OFFICES OF NEWELL E. CUMMING

145 SOUTH FIG STREET, SUITE L
ESCONDIDO, CA 92025

TEL: (760) 747-6600
FAX: (760) 747-6644

NECLAW@SBCGLOBAL.NET

CALIFORNIA • NEVADA • GEORGIA

FAX

To: Wells Fargo Home Mortgage **DATE:** October 14, 2009

FIRM/Co: **No. of Pgs:** 3 inc. cover sheet

RE: Loan No. 0069780674 **FAX No:** (866) 917-1877
Robert Moreno & Susan Adcock

Please see following letter and attachment.

UNLESS OTHERWISE INDICATED OR OBVIOUS FROM THE NATURE OF THIS TRANSMITTAL, THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL, AND INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR OR ARE NOT CERTAIN WHETHER IT IS PRIVILEGED, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE AT OUR EXPENSE. THANK YOU.

(0.13411728) 1.00000000

NOV-20-2009 09:56 From:

To: 7607476644

P.2/2

If you would like to discuss the present condition of your loan, or if we can be of further assistance, please call one of our Loan Service Representatives at 1-800-416-1472, Monday through Friday from 8:00 a.m. to 8:00 p.m. Central Time.

Sincerely,

Wells Fargo Home Mortgage
Default Management Department

This communication is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you have received a discharge of this debt in bankruptcy or are currently in a bankruptcy case, this notice is not intended as an attempt to collect a debt and, this company has a security interest in the property and will only exercise its rights as against the property.

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8:00 a.m. or after 9:00 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

EX. A - PAGE 033

22573.708.DAT30.CA4



Wells Fargo Home Mortgage
MAC X2302-019
1 Home Campus
Des Moines, IA 50328-0001

December 10, 2009

Newell Cumming
145 S Fig St, Suite L
Escondido, CA 92025

Dear Newell Cumming:

RE: Robert R. Moreno & Susan A. Adcock
Loan Number 708-0069780674

Wells Fargo Home Mortgage received correspondence regarding the above referenced mortgage loan. Our company recognizes that these are unprecedented and financially difficult times for many borrowers and we welcome the opportunity to provide assistance.

Thank you for taking the time to write us regarding the hardships you are experiencing. Regrettably, only the representatives in our Loss Mitigation/Collections department have the specialized training and authority to establish repayment arrangements. Due to the time sensitive nature of these arrangements, Wells Fargo Home Mortgage requires that all workout options first be discussed over the telephone with a Loss Mitigation/Collections specialist. Therefore, it is imperative for you to call our Loss Mitigation/Collections department to determine what options are available to assist you in bringing your loan current and prevent your loan from going further into default. Your correspondence indicates you forwarded us information on October 14, 2009. Regrettably our records do not reflect receiving any documents in October, 2009.

You may contact the Loss Mitigation/Collections Department at (800) 678-7986. A specialist is available to assist you Monday through Friday, 7:00 a.m. to 9:30 p.m.; and Saturday, 8:00 a.m. to 2:00 p.m., Central Time. Please be prepared to provide financial information, which may include information from your paystub or Federal Tax Return.

If you have any additional questions or need clarification regarding the information provided, please contact me directly at (877) 501-0871, extension 45480. I am available to assist you Monday through Friday, 8:30 a.m. to 5:00 p.m., Central Time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Heather Duffy".

Heather Duffy
Written Customer Contact

This communication is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you have received a discharge of this debt in bankruptcy or are currently in a bankruptcy case, this notice is not intended as an attempt to collect a debt as this company has a security interest in the property and will only exercise its rights against the property.

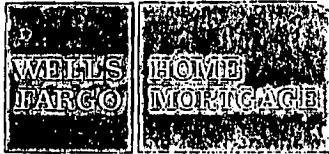
With respect to those loans located in the State of California, the state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HBLLP or www.ftc.gov.

PC003/J4N/ge1497t

Exhibit "F"

EX. A - PAGE 034

Wells Fargo Home Mortgage
is a division of Wells Fargo Bank, N.A.



Wells Fargo Home Mortgage

MAC X2302-019

1 Home Campus

Des Moines, IA 50328-0001

December 10, 2009

Newell Cumming
145 S Flg St, Suite L
Escondido, CA 92025

Dear Newell Cumming:

RE: Robert R. Moreno & Susan A. Adcock
Loan Number 708-0069780674

Wells Fargo Home Mortgage received correspondence regarding the above referenced mortgage loan. Our company recognizes that these are unprecedented and financially difficult times for many borrowers and we welcome the opportunity to provide assistance.

Thank you for taking the time to write us regarding the hardships you are experiencing. Regrettably, only the representatives in our Loss Mitigation/Collections department have the specialized training and authority to establish repayment arrangements. Due to the time sensitive nature of these arrangements, Wells Fargo Home Mortgage requires that all workout options first be discussed over the telephone with a Loss Mitigation/Collections specialist. Therefore, it is imperative for you to call our Loss Mitigation/Collections department to determine what options are available to assist you in bringing your loan current and prevent your loan from going further into default. Your correspondence indicates you forwarded us information on October 14, 2009. Regrettably our records do not reflect receiving any documents in October, 2009.

You may contact the Loss Mitigation/Collections Department at (800) 678-7986. A specialist is available to assist you Monday through Friday, 7:00 a.m. to 9:30 p.m.; and Saturday, 8:00 a.m. to 2:00 p.m., Central Time. Please be prepared to provide financial information, which may include information from your paystub or Federal Tax Return.

If you have any additional questions or need clarification regarding the information provided, please contact me directly at (877) 501-0871, extension 45480. I am available to assist you Monday through Friday, 8:30 a.m. to 5:00 p.m., Central Time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Heather Duffy".

Heather Duffy
Written Customer Contact

This communication is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you have received a discharge of this debt in bankruptcy or are currently in a bankruptcy case, this notice is not intended as an attempt to collect a debt as this company has a security interest in the property and will only exercise its rights against the property.

With respect to those loans located in the State of California, the state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HBPL or www.ftc.gov.

PC003/J4N/ge1497

Exhibit "F"

Wells Fargo Home Mortgage
Is a division of Wells Fargo Bank, N.A.

EX. A - PAGE 035



Return Mail Office
P.O. Box 1036
Des Moines, IA 50306-0368

December 11, 2009

009048 1 AB 0.360 1048/009048/002328 045 01 AC03DM DF031 708

Law Offices Of Newell E Cumming
Suite L
145 S Fig St
Escondido CA 92025-4453



Dear Law Offices Of Newell E Cumming:

RE: Attorney Representation
Loan Number 0069780674, Client 708
Borrower: Robert R Moreno
Co-Borrower: Susan A Adcock

We were previously advised that the above referenced mortgagor has retained your office to represent them.

Please confirm that your office still represents the mortgagor(s). If we do not receive a response within 15 days from the date of this letter, we will assume that you no longer represent them. This information can be faxed to (866) 917-1877.

☒ Still fully retained and representing mortgagor
☐ No longer representing mortgagor

Thank you.

Sincerely,

Wells Fargo Home Mortgage

*12-16-09
copy
mailed to RM*

Exhibit "G"



EX. A - PAGE 036

HP Officejet J4500 All-in-One series

Fax Log for
Newell Cumming

7607476644

Dec 16 2009 1:07PM

Last Transaction

Date	Time	Type	Station ID	Duration	Pages	Result
Dec 16	1:06PM	Fax Sent	18669171877	0:46	1	OK

Note:

Image on Fax Send Report is set to Off

An image of page 1 will appear here for faxes that are sent as Scan and Fax.

DEC-21-2009 16:11 From:

To: 7607476644

P.1/3

Dec 21 09 04:00p Newell Cumming

76074 4

p.1

LAW OFFICES OF NEWELL E. CUMMING

148 SOUTH FOG STREET, SUITE L
ESCONDIDO, CA 92025

TEL: (760) 747-6600
FAX: (760) 747-6644

NEOLAW@GCSGLOBAL.NET

CALIFORNIA • NEVADA • GEORGIA

VIA FACSIMILE (866-352-7363) AND U.S. MAIL

December 21, 2009

Loss Mitigation Dept.
Wells Fargo Home Mortgage
MAC X2302-019
1 Home Campus
Des Moines, IA 50328-0001

Re: Loan No. 0069780674
Robert R. Moreno and Susan A. Adcock

Dear Sir/Madam:

As the records of Wells Fargo Home Mortgage ("Wells Fargo") will confirm, my law office represents Robert R. Moreno and Susan A. Adcock ("Clients") with regard to their efforts to modify the above-referenced home mortgage loan. My assistance has been requested with regard to my Clients' attempt to modify their loan with Wells Fargo, and thereby be able to remain in their home.

Several months ago, Wells Fargo had requested that I provide information about my Clients' monthly income and expenses. On October 14, 2009, I sent the requested information to your bank. After sending that information, I received no further communication from Wells Fargo until your bank's letter of December 10, 2009, wherein it was requested that I contact the Loss Mitigation/Collections Department, which I did. On December 16, 2009, in that department I talked to Natalie, who requested (again) that updated financial information about my Clients be sent to Wells Fargo. This letter, and its enclosures, will provide the additional information requested.

In addition to information about my Clients' business, Automotive Specialists, LLC, Wells Fargo also requested wage details regarding Susan Adcock.

Copies of the following additional information requested by Wells Fargo is enclosed:

- I. Balance Sheets for Automotive Specialists, LLC for the months of September, October, and November 2009.

Exhibit "H"

EX. A - PAGE 038

DEC-21-2009 16:11 From:

10:16074/6644

P.2/3

Dec 21 09 04:00p Nowell Cumming

76074 44

p.2

Wells Fargo Home Mortgage
December 21, 2009
Page Two

2. Profit & Loss Statements for Automotive Specialists, LLC for the months of September, October, and November 2009.
3. Current pay Stubs for Susan Adcock reflecting her employment at the Valley Center Pampa Unified School District and Automotive Specialists, LLC.

I was also advised that an explanation of my Clients' financial hardship needs to be provided. Although several letters have already been sent to Wells Fargo describing my Clients hardship, and the reason they have found themselves in such a difficult financial situation, here again is the reason.

As with many small businesses affected by the economic downturn, my Client's business, an automotive repair facility, has slowed down significantly. As a result, the compensation received by Mr. Moreno, the owner, has also been significantly reduced. With his lower income, it has been difficult for my Clients to pay all of their creditors, including Wells Fargo. Copies of my earlier letters to Wells Fargo, dated October 14, 2009 and November 23, 2009, are enclosed for your convenience.

As an aside, please note that Mr. Moreno's business has improved somewhat during the past several months, as shown in the enclosed financial statements. Because of this, my Client was able to take home an increased amount of compensation. However, when Mr. Moreno's monthly income is averaged over the past twelve-month period, it will be apparent why my Clients are in such financial straits. Worst of all, their financial resources have been depleted to the point where they are no longer able to continue making their monthly mortgage payments to Wells Fargo.

However, as previously noted, there is good news regarding this matter: My Clients are trying to do whatever they can to work out a loan modification with Wells Fargo that would enable them to make regular monthly payments, and thereby avoid losing their home. In addition, my Clients believe that a modified loan with Wells Fargo, combined with an improved business economy next year, they will be able to remain in their home.

Although Wells Fargo already has a letter with my Clients' original signatures authorizing me to represent them in this matter, I was requested to have my Clients' signatures with this letter. Per your request, my Clients' signatures appear below.

During my telephone conversation with Natalie, I was advised that upon receipt of the enclosed information, Wells Fargo would review this case and let us know what types of

DEC 21 2009 10:11 FROM:

10:1001410044

P.3/3

Dec 21 09 04:01p Newell Cumming

76074 44

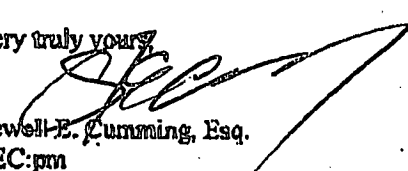
p.3

Wells Fargo Home Mortgage
December 21, 2009
Page Three

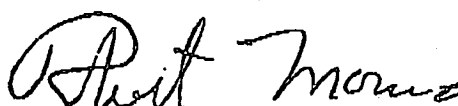
modification and debt relief may be available to my Clients. We look forward to hearing back from you.

Thank you.

Very truly yours,


Newell E. Cumming, Esq.
NEC:pm

Enc.


Robert Moreno

12-21-09
Date

HP Officejet J4500 All-in-One sr

Fax Log for
Newell Cumming
7607476644
Dec 21 2009 5:18PM

Last Transaction

Date	Time	Type	Station ID	Duration	Pages	Result
Dec 21	5:17PM	Fax Sent	18663597363	1:28	3	OK

Note:

Image on Fax Send Report is set to Off

An image of page 1 will appear here for faxes that are sent as Scan and Fax.

LAW OFFICES OF NEWELL E. CUMMING

145 SOUTH FIG STREET, SUITE L
ESCONDIDO, CA 92025

TEL: (760) 747-6600
FAX: (760) 747-6644

NECLAW@SBCGLOBAL.NET

CALIFORNIA • NEVADA • GEORGIA

VIA FACSIMILE (866-359-7363) AND U.S. MAIL

January 4, 2010

Loss Mitigation Dept.
Wells Fargo Home Mortgage
MAC X2302-019
1 Home Campus
Des Moines, IA 50328-0001

Re: Loan No. 0069780674
Robert R. Moreno and Susan A. Adcock

Dear Sir/Madam:

As the records of Wells Fargo Home Mortgage ("Wells Fargo") will confirm from my numerous prior letters, my law office represents Robert R. Moreno and Susan A. Adcock ("Clients") with regard to their efforts to modify the above-referenced home mortgage loan. My assistance has been requested with regard to my Clients' attempt to modify their loan with Wells Fargo, and thereby be able to remain in their home.

In response to my earlier communications, Wells Fargo continues to repeatedly request the same financial information about my Clients, notwithstanding the fact that the requested information has already been provided to your bank on at least two occasions. Although I understand that Wells Fargo, like other mortgage companies, is likely inundated with requests for loan modifications, I have been attempting for almost four months to resolve this matter.

For example, after receiving from Wells Fargo a request for my Clients' financial information, I sent to your bank on October 14, 2009 the requested information. After sending that information, I received no further communication from Wells Fargo until your bank's letter of December 10, 2009, wherein it was requested that I contact the Loss Mitigation/Collections Department, which I did. On December 16, 2009, I talked to Natalie in that department, and was again asked to provide updated financial information about my Clients.

Following my telephone conversation with Natalie, the financial information was (again) sent to Wells Fargo on December 21, 2009, including copies of my clients' balance sheets and profit & loss statements for Automotive Specialists, LLC, as well as current pay stubs for Susan Adcock.

Wells Fargo Home Mortgage

January 4, 2010

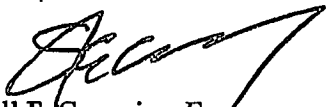
Page Two

Even after complying with Wells Fargo's repeated requests for the same information, I have still not been contacted by your bank so that a meaningful and substantive discussion can be had to determine which loan modification options are available to my clients. In that my clients have been unable to pay the full monthly amount of their mortgage, the delays caused by Wells Fargo to resolve this matter are resulting in further negative credit reports.

Of course, it is understandable that your bank would report to appropriate credit reporting agencies my Clients' past due status. However, such reporting is now starting to adversely affect my Clients' automotive repair business, and their ability to acquire needed supplies. As a consequence, the extensive delays by Wells Fargo to respond to my Clients' request for a loan modification have further worsened their financial condition.

As such, it is imperative that Wells Fargo contact me without delay so that my Clients can determine what options are available to ensure that they can remain in their home. Thank you.

Very truly yours,



Newell E. Cumming, Esq.
NEC:pm

cc: Robert Moreno

LAW OFFICES OF NEWELL E. CUMMING

145 SOUTH FIG STREET, SUITE L
ESCONDIDO, CA 92025

TEL: (760) 747-6600
FAX: (760) 747-6644

NECLAW@SBCGLOBAL.NET

CALIFORNIA • NEVADA • GEORGIA

FAX

TO: Loss Mitigation Dept. **DATE:** January 5, 2010

FIRM/CO: Wells Fargo Home Mortgage **NO. OF PGS:** 3 inc. cover sheet

RE: Loan No. 0069780674 **FAX NO:** (866) 917-1877
Robert Moreno & Susan Adcock

Please deliver following letter and attachments to Loss Mitigation Dept.

UNLESS OTHERWISE INDICATED OR OBVIOUS FROM THE NATURE OF THIS TRANSMITTAL, THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL, AND INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR OR ARE NOT CERTAIN WHETHER IT IS PRIVILEGED, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE AT OUR EXPENSE. THANK YOU.

EX. A - PAGE 044

HP Officejet J4500 All-In-One st

Fax Log for
Newell Cumming
7607476644
Jan 05 2010 1:40PM

Last Transaction

Date	Time	Type	Station ID	Duration	Pages	Result
Jan 5	1:38PM	Fax Sent	18669171877	1:28	3	OK

Note:

Image on Fax Send Report is set to Off

An image of page 1 will appear here for faxes that are sent as Scan and Fax.

JAN-14-2010 06:55 From:

T: 7607476644

P.1/1

Wells Fargo Home Mortgage
3476 Stateview Blvd., MAC X7801-013
Fort Mill SC 29715

January 07, 2010

Robert R Moreno
Susan A Adcock
PO Box 1410
Valley Center CA 92082

RE: Loan Number 0069780674
Primary Number

Region 708

THIS LETTER IS FOR INFORMATIONAL PURPOSES ONLY. THIS IS NOT A DEMAND FOR PAYMENT.

The above loan file has been referred to our attorney with instructions to begin foreclosure proceedings.

You are hereby notified that, due to the default under the terms of the mortgage or deed of trust, the entire balance is due and payable.

If you have any questions, please contact our attorney listed below.

First American Loanstar
Trustee Services LLC
1 First American Way
Westlake TX, 76262
(866) 798-0213

In the event you are experiencing an involuntary inability to pay and wish to explore an opportunity to reinstate, or need assistance in selling your property, please contact our offices at (800) 848-9862 and request to speak to one of our Borrower Counseling Representatives.

If you received a discharge in bankruptcy from personal liability for this mortgage loan, you should be aware that the mortgage or deed of trust remains as a valid lien against the property and will be foreclosed. Please be advised that in the event of foreclosure, you would not be personally liable for any part of the debt, but you will lose your interest in and rights to the property.

Sincerely,

Foreclosure Department

XF004/RD7

Note: The Fair Debt Collection Practices Act requires us to notify you that in the event your loan is in default, Wells Fargo Bank, N A will attempt to collect the debt and any information obtained will be used for that purpose. However, if you have received a discharge, and the loan was not reaffirmed in the bankruptcy case, Wells Fargo Bank, N A as against the proper the discharge debt i

ect

Exhibit "J"

EX. A - PAGE 046

** TOTAL PAGE. 02 **



Wells Fargo Home Mortgage
MAC X2302-019
1 Home Campus
Des Moines, IA 50328-0001

VIA FACSIMILE (760) 747-6644

January 15, 2010

Newell E. Cumming
145 South Fig Street, Suite L
Escondido, CA 92025
Po Box 1410
Valley Center, CA 92082-0000

Dear Newell E. Cumming & Susan A Adcock:

RE: Robert R Moreno
Loan Number 708-0069780674

Wells Fargo Home Mortgage (WFHM) received correspondence regarding the above referenced loan. The authorization provided, allows me to respond directly to you. I have reviewed the information presented and would like to provide you with the details of my research.

I would like to offer my regrets, on behalf of Wells Fargo Home Mortgage, that we did not meet your servicing expectations. We recognize that the review process may be time consuming and we thank you for your cooperation, patience, and willingness to provide us with the necessary information to fully complete our review.

The agreements that are offered are done as a way to assist homeowners in bringing their loan current without going further in to collection activity, however it does not change the terms of the Note the homeowner signed at closing which reflects their payment is due on the first of each month. The late charges and credit bureau reporting are not suspended while in review for possible workout solutions. We are obligated to accurately report information to the credit agencies.

Our records reflect that the homeowner is in active review our Loss Mitigation/Collections department to determine which workout options are available for the homeowner's loan. Only our Loss Mitigation/Collections specialists have the specialized training and authority to determine options available for you; therefore, we encourage you to direct all questions pertaining to your review to them. Please keep in mind that financial information is very time sensitive. Therefore, we may require you to send us updated information, which reflects its status within the last 30 days.

You may contact the Loss Mitigation/Collection department at (800) 678-7986. Our specialists are available to assist you Monday through Friday, 7:00 a.m. to 9:30 p.m.; and Saturday, 8:00 a.m. to 2:00 p.m., Central Time.

If you have any additional questions or need clarification regarding the information provided, please contact me directly at (877) 501-0871, extension 45680. I am available to assist you Monday through Friday, 8:30 a.m. to 5:00 p.m., Central Time.

Sincerely,

Heather Duffy
Written Customer Contact

Authorized users may contact our Customer Service Department
Friday, 6:00 a.m. to

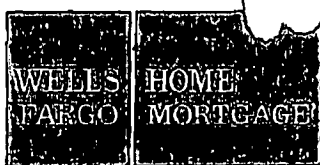
WC403/J4N/gel 67.

for assistance Monday through

Exhibit "K"

Wells Fargo Home Mortgage
a division of Wells Fargo Bank, N.A.

EX. A - PAGE 047



Wells Fargo Home Mortgage
 MAC X2302-019
 1 Home Campus
 Des Moines, IA 50328-0001

Confidential Fax Cover Sheet

This facsimile transmission is confidential and may be privileged. It is intended for the use of the addressee only. If you are not the addressee (or a person responsible for delivering this transmission to the addressee), do not use this transmission in any way, but promptly contact the sender by telephone. Thank you.

Date:	Time:
1/15/2010	10:54 AM
To:	From:
Newell E. Cumming	Heather Duffy
	Wells Fargo Home Mortgage
Phone:	Phone:
	(877) 501-0871, extension 45680
Fax:	Fax:
(760) 747-6644	(515) 324-2420
Number of pages (including cover sheet): 2	

Message

Wells Fargo Home Mortgage
 is a division of Wells Fargo Bank, N.A.

EX. A - PAGE 048

JAN 16 2010 14:29 FR WELLS FARGO HOME MORT20

TO 917607476644

P. 01

2230726665

Recording Requested By:
First American Title Insurance Company

CERTIFIED BY FIRST AMERICAN TITLE
INSURANCE COMPANY TO BE A COPY
OF THE DOCUMENT RECORDED ON 01/26/2010
AS INSTRUMENT NO. 2010-0038987
IN BOOK PAGE
OFFICIAL RECORDS OF SAN DIEGO

When Recorded Mail To:
FIRST AMERICAN LOANSTAR
TRUSTEE SERVICES LLC
P.O. BOX 961253
FORT WORTH, TX 76161-0253

Space above this line for Recorder's use only

TS No. : 20109670800241
APN: 188-180-73-00
TSG No. : 4351982

Pursuant to California Code Section 2924c(b)(1) please be advised of the following:

**NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST
IMPORTANT NOTICE**

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS IT MAY BE SOLD WITHOUT ANY COURT ACTION, and you may have the legal right to bring your account into good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five days business days prior to the date set for the sale of your property. No sale date may be set until three months from the date this Notice of Default may be recorded (which date of recordation appears on this notice).

This amount is \$18,104.80 as of 01/22/2010, and will increase until your account becomes current. While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the note and deed of trust or mortgage, the beneficiary or mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the beneficiary or mortgagee may require as a condition of reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon your written request, the beneficiary or mortgagee will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the three month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2);

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

90708-WELLS FARGO HOME MORTGAGE
c/o FIRST AMERICAN LOANSTAR TRUSTEE SERVICES LLC
P.O. BOX 961253
FORT WORTH, TX 76161-0253



Exhibit "L"

EX. A - PAGE 049

**NOTICE OF DEFAULT DECLARATION
PURSUANT TO CALIFORNIA CIVIL CODE 2923.5**

Wells Fargo Home Mortgage
3476 Stateview Blvd.
Fort Mill, SC 29715

Borrower: ROBERT R MORENO
Property Address: 14007 BERNABEO COURT
VALLEY CENTER CA 92082

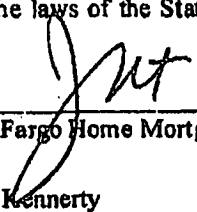
The undersigned mortgagee, beneficiary, or their authorized agent (collectively, the "Beneficiary") represent and declares that the requirements of CA Civil Code 2923.5 have been met. This Declaration is required for any residential owner occupied property in which the loan was originated between January 1, 2003 and December 31, 2007. Non-owner occupied property and vacant property are exempt from the requirements of CA Civil Code 2923.5.

One of the below necessary requirements was met by the Beneficiary:

- * The Beneficiary has made contact with the borrower pursuant to CA Civil Code 2923(a)(2). Contact with the borrower was made in person or by telephone to assess the borrower's financial situation and explore options for the borrower to avoid foreclosure.
- * Due Diligence to contact the borrower was exercised pursuant to CA Civil Code 2923.5(g)(2) by the Beneficiary.
- * The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the mortgagee, Trustee, beneficiary, or authorized agent pursuant to CA Civil Code 2923.5(h)(1).
- * The borrower has contracted with an organization, person, or entity whose primary business is advising people who have decided to leave their homes on how to extend the foreclosure process and avoid their contractual obligations to mortgagees or beneficiaries pursuant to CA Civil Code 2923.5(h)(2).
- * The borrower has filed for bankruptcy and the proceedings have not been finalized pursuant to CA Civil Code 2923.5(h)(3).

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 01/11/2010



Wells Fargo Home Mortgage

John Kennerty



LAW OFFICES OF NEWELL E. CUMMING

145 SOUTH FIG STREET, SUITE L
ESCONDIDO, CA 92025

TEL: (760) 747-6600
FAX: (760) 747-6644

NECLAW@SBCGLOBAL.NET

CALIFORNIA • NEVADA • GEORGIA

VIA U.S. CERTIFIED MAIL

February 9, 2010

Wells Fargo Home Mortgage
3476 Stateview Blvd.
Fort Mill, SC 29715

Re: Wells Fargo Loan No. 0069780674
Robert R. Moreno and Susan A. Adcock

Dear Sir/Madam:

As the records of Wells Fargo Home Mortgage ("Wells Fargo") will confirm from my numerous prior letters, my law office represents Robert R. Moreno and Susan A. Adcock ("Clients") with regard to their efforts to modify the above-referenced home mortgage loan. My assistance has been requested with regard to my Clients' attempt to modify their loan with Wells Fargo, and thereby be able to remain in their home.

Wells Fargo has already been advised that my clients have been unable to make the full monthly mortgage payments because of a slowdown in Mr. Moreno's automotive repair business. In that my Clients very much want to remain in their home, I have been retained to help facilitate with your bank a loan modification that would be acceptable to both my clients and Wells Fargo, and which would enable these homeowners to remain in their home.

On behalf of my Clients, I have repeatedly written to Wells Fargo during the past seven (7) months requesting the opportunity to pursue some type of loan modification. As your records should indicate, I have written to Wells Fargo on July 20, 2009, July 29, 2009, September 11, 2009, October 14, 2009, November 23, 2009, December 21, 2009, and January 4, 2010.

I have also had numerous telephone discussions with various Wells Fargo representatives. For example, on or about December 16, 2009, I talked to a Natalie in your bank's Loss Mitigation/Collections Department. During my conversation with her, I was told that after Wells Fargo receives the additional information requested, I will be contacted with information about the possible types of mortgage modifications.

Notwithstanding my efforts and letters, and your representative's promise, Wells Fargo has still not provided any information regarding what loan modification(s) may be available to my Clients. Instead, the only communications from your bank have been

Wells Fargo Home Mortgage
February 9, 2010
Page Two

requests for the same information that has already provided to Wells Fargo.

In view of the failure of Wells Fargo to properly respond to my Clients' repeated loan modification requests in good faith, it appears that your bank is engaged in acts of bad faith. This fact is apparent now that my Clients have received a Notice of Default from First American LoanStar Trustee Services, LLC ("LoanStar"). Even though my Clients have been trying for more than seven months to modify their mortgage, Wells Fargo has yet to provide information about possible types of loan modifications.

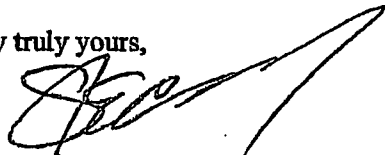
I have now received Wells Fargo's Notice of Default Declaration, dated January 11, 2010. In that Declaration, executed by a bank representative, Wells Fargo states that the bank has contacted my Clients to "explore options for the borrower to avoid foreclosure", as required by California Civil Code §2923.5 *et seq.* and/ or has exercised "due diligence to contact the borrower." Neither of these pre-conditions has been met by Wells Fargo. Accordingly, please accept this letter as notification to Wells Fargo of this fact.

In addition, in a letter dated February 2, 2010 from LoanStar to my clients, it was acknowledged that proof of the debt owed by my clients and the name and address of the original creditor may be requested. Please further accept this letter as requesting that this information be supplied to my Clients.

Given the absence on the part of Wells Fargo to explore loan modification possibilities, you should also accept this letter as providing notification of my Clients' intention to seek injunctive relief against Wells Fargo if the underlying default is pursued by your bank or LoanStar without Wells Fargo's first advising my Clients about what loan modifications are available.

Thank you.

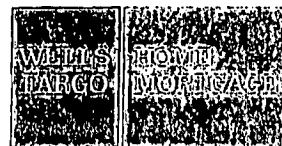
Very truly yours,



Newell E. Cumming, Esq.
NEC:pm

cc: Robert Moreno

WELLS FARGO HOME MORTGAGE
 RETURN MAIL OPERATIONS
 PO BOX 10368
 DES MOINES IA 50306-0368



March 1, 2010



002544 1 AT 0.357 02544/002544/004347 0011 2 AGNF7F LM189 708
 ROBERT R MORENO
 SUSAN A ADCOCK
 PO BOX 1410
 VALLEY CENTER, CA 92082-1410



Account Information

Online: yourwellsfargomortgage.com
 Fax: (866) 278-1179
 Telephone: (800) 416-1472
 Correspondence: PO Box 10335
 Des Moines, IA 50306
 Hours of Operation: Mon - Fri, 8 AM - 8 PM CT
 Loan Number: 0069780674
 Property Address: 14007 Bernabeo Court
 Valley Center CA 92082

RE: Mortgage options available

Dear Robert R Moreno & Susan A Adcock:

Thank you for taking the time to speak with us today. We at Wells Fargo Home Mortgage realize that this may be a difficult time for you, and we appreciate the opportunity to assist you.

We value you as a customer and have several options that may help you keep your home. However, in order for us to get started, we need additional financial information to determine what option is best suited for your situation.

Please gather all financial information related to your monthly income and expenses, and contact our office at the number provided above.

While we offer a complete line of solutions for continuing homeownership, we also recommend you seek guidance on all other debts from a community-based Consumer Credit Counseling Agency. To take advantage of this service, call (866) 857-3092 for additional information.

We're happy to have you as our customer and look forward to helping you with your financial needs. If you have any questions, please contact us at the number listed in the account information section of this letter.

Sincerely,

Wells Fargo Home Mortgage

Exhibit "N"

EX. A - PAGE 053
 Together we'll go far



WFM300P

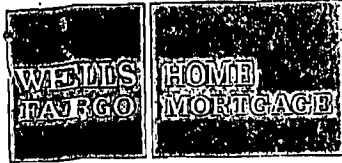
LM189 708

002544/004347 AGNF7F 82-ET-M1-C001



030110LM189007MV





Wells Fargo Home Mortgage
MAC X2303-019
1 Home Campus
Des Moines, IA 50328-0001

March 01, 2010

Newell E. Cumming, Esq.
Law Office of Newell E. Cumming
145 South Fig Street #L
Escondido, CA 92025

Dear Newell E. Cumming, Esq. and Law Office of Newell E. Cumming:

RE: Borrower: Robert R. Moreno and Susan A. Adcock
Property Address: 14007 Bernabeo Court, Valley Center, CA 92082
Loan Number 708-0069780674

Wells Fargo Home Mortgage (WFHM) received correspondence regarding investors and the loan modification process. Due to your legal representation of our borrower(s), I am able to respond directly to you. I have reviewed the information presented and would like to provide you with the details of my research.

Wells Fargo Home Mortgage provides servicing of loans for investors. As the servicer, Wells Fargo Home Mortgage collects payments, pays escrow items such as taxes and insurance, answers questions and provides payoff information, workout opportunities, loss mitigation, as well as other duties on behalf of the investor during the mortgage period. Wells Fargo Home Mortgage continues to act in these capacities for the investor, which allows us to provide services for your mortgage loan.

Any other information you have requested regarding our relationship with the investor, including submission of payments to the investor, is not being provided as it is considered privileged information.

Regrettably, only the representatives in our Loss Mitigation/Collections department have the specialized training and authority to establish repayment arrangements. Due to the time sensitive nature of these arrangements, Wells Fargo Home Mortgage requires that all workout options first be discussed over the telephone with a Loss Mitigation/Collections specialist. Therefore, I have forwarded your correspondence of February 23, 2010 on to that department for their review. It is imperative for you or Robert Moreno and/or Susan Adcock to call our Loss Mitigation/Collections department to determine what options are available to assist you in bringing the loan current and prevent the loan from going further into default.

You may contact the Loss Mitigation/Collections Department at (800) 678-7986. A specialist is available to assist you Monday through Thursday, from 7:00 a.m. to 9:00 p.m.; Friday, from 7:00 a.m. to 8:00 p.m.; and Saturday, from 8:00 a.m. to 2:00 p.m., Central Time.

In addition, the loan is currently in foreclosure. If Robert Moreno and Susan Adcock are interested in bringing the loan completely current; reinstatement figures must be obtained from our foreclosure attorney First American Loanstar Trustee Services at:

EX. A - PAGE 054

Wells Fargo Home Mortgage
is a division of Wells Fargo Bank, N.A.



**First American
LoanStar Trustee Services**

P.O. BOX 961253
FT WORTH, TX 76161-0253

March 1, 2010

Law Offices of Newell E. Cumming
145 South Fig Street Ste L
Escondido, CA 92025

RE: TS # 20109070800241 / Loan #: 0069780674

Dear Mr. Cumming:

First American LoanStar Trustee Services is in receipt of your email – fax or letter dated February 09, 2010 and our file has been noted.

We have sent your letter to Wells Fargo Home Mortgage for review and response.

If you should have any further questions, please do not hesitate to contact our office.
817-699-6035

Sincerely,

First American Loanstar Trustee Services, LLC.

FIRST AMERICAN LOANSTAR TRUSTEE SERVICES MAY BE ACTING AS A DEBT
COLLECTOR, ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION PROVIDED WILL
BE USED FOR THAT PURPOSE.

Mar 20 10 09:26a

Susie Adcock

7607493004

p. 1
Page 1 of 2

WELLS FARGO HOME MORTGAGE
RETURN MAIL OPERATIONS
PO BOX 10368
DES MOINES IA 50306-0368



March 15, 2010

002363 1 AT 0.357 023631002363/004346 0011 2 AGNFPX LC278 708
ROBERT R MORENO
SUSAN A ADCOCK
PO BOX 1410
VALLEY CENTER, CA 92082-1410

Account Information

Online: yourwellsfargomortgage.com
Fax: (866) 278-1179
Telephone: (800) 416-1472
Correspondence: PO Box 10335
Des Moines, IA 50308
Hours of Operation: Mon - Fri, 8 AM - 8 PM CT
Loan Number: 0069780874
Property Address: 14007 Bernabeo Court
Valley Center CA 92082

RE: Decision on your request for mortgage assistance

Dear Robert R Moreno & Susan A Adcock:

We're writing to provide you with the results of our efforts to find a solution that might help with the mortgage payment challenges you're facing.

Final decision on your mortgage loan request

Unfortunately, after carefully reviewing the information you've provided, we are unable to adjust the terms of your mortgage.

This decision was made because you did not provide us with all of the information needed within the time frame required per your trial modification period workout plan. For that reason, you have not been approved for a mortgage loan modification.

Additional assistance is available

If monthly expenses other than your mortgage payment are creating part of your financial strain, we encourage you to contact a HUD-approved, non-profit, community based Credit Counseling agency who can work with you to lower other monthly payments. You can find a local agency by calling (800) 569-4287. A counselor will work closely with you, take your financial circumstances into consideration, and create a budget plan that may work for you.

Be sure you avoid anyone who asks for a fee for counseling or a loan modification, or asks you to sign over the deed to your home, or to make your mortgage payments to anyone other than Wells Fargo Home Mortgage.

Exhibit "O"

EX. A - PAGE 056

Together we'll go far



WFM300P



031810LC278001UW



Mar 20 10 09:07

Susie Adcock

7607493004

p. 2
Page 2 of 2

Account Information

Loan Number: 0069780674

Property Address: 14007 Bernabeo Court
Valley Center CA 92082

If you have any questions about the decision we've made on your mortgage request, please call a Wells Fargo Home Mortgage representative today at the number listed above in the account information section. We'd also like to hear from you if any of your circumstances have changed, or if you can provide us with additional information for consideration.

Sincerely,



Ben Windust
Senior Vice President
Wells Fargo Home Mortgage

Wells Fargo Bank, N A is required by the Fair Debt Collection Practices Act to inform you that if your loan is currently delinquent or in default, as your loan servicer, we will be attempting to collect a debt and any information obtained will be used for that purpose. However, if you have received a discharge and the loan was not reaffirmed in the bankruptcy case, Wells Fargo Bank, N A will only exercise its right as against the property and is not attempting any act to collect the discharge debt from you personally.

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 AM or after 9 PM. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about our debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

Wells Fargo Home Mortgage is a division of Wells Fargo Bank, N A ©2009 Wells Fargo Bank, N A. All rights reserved.



Recording Requested By:
First American Title Insurance Company

When Recorded Mail To:
First American LoanStar Trustee Services LLC
P.O. Box 961253
Fort Worth, TX 76161-0253
(817)699-6035

TSG No.: 4351982
TS No.: 20109070800241
FHA/VA/PMI No.:
APN: 188-180-73-00

Space above this line for Recorder's use only

NOTICE OF TRUSTEE'S SALE

YOU ARE IN DEFAULT UNDER A DEED OF TRUST, DATED 10/26/2006. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

On 05/17/2010 at 10:00 A.M., First American LoanStar Trustee Services LLC, as duly appointed Trustee under and pursuant to Deed of Trust recorded 11/09/2006, as Instrument No. 2006-0802195, in book , page , of Official Records in the office of the County Recorder of San Diego County, State of CALIFORNIA. Executed by:

ROBERT R. MORENO AND SUSAN A. ADCOCK, AS TRUSTEES OF THE MORENO-ADCOCK FAMILY TRUST U/D/T JANUARY 11, 2005.,

WILL SELL AT PUBLIC AUCTION TO HIGHEST BIDDER FOR CASH, CASHIER'S CHECK/CASH EQUIVALENT or other form of payment authorized by 2924h(b), (Payable at time of sale in lawful money of the United States) At the South entrance to the County Courthouse, 220 West Broadway., San Diego, San Diego county, CA

All right, title and interest conveyed to and now held by it under said Deed of Trust in the property situated in said County and State described as: AS MORE FULLY DESCRIBED IN THE ABOVE MENTIONED DEED OF TRUST APN# 188-180-73-00

The street address and other common designation, if any, of the real property described above is purported to be:

14007 BERNABEO COURT, VALLEY CENTER, CA 92082

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designation, if any, shown herein. Said sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal sum of the note(s) secured by said Deed of Trust, with interest thereon, as provided in said note(s), advances, under the terms of said Deed of Trust, fees, charges and expenses of the Trustee and of the trusts created by said Deed of Trust. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is \$592,555.72. The beneficiary under said Deed of Trust heretofore executed and delivered to the undersigned a written Declaration of Default and Demand for Sale, and a written Notice of Default and Election to Sell. The undersigned caused said Notice of Default and Election to Sell to be recorded in the County where the real property is located.

Date: 04/27/2010

First American Title Insurance Company
First American LoanStar Trustee Services LLC
3 FIRST AMERICAN WAY
SANTA ANA, CA 92707

Original document signed by Authorized Agent

— FOR TRUSTEE'S SALE INFORMATION
PLEASE CALL 714-277-4845

**First American LoanStar Trustee Services LLC
MAY BE ACTING AS A DEBT COLLECTOR
ATTEMPTING TO COLLECT A DEBT. ANY
INFORMATION OBTAINED MAY BE USED FOR
THAT PURPOSE.**



Exhibit "P"

LAW OFFICES OF NEWELL E. CUMMING

145 SOUTH FIG STREET, SUITE L
ESCONDIDO, CA 92025

TEL: (760) 747-6600
FAX: (760) 747-6644

NecLaw@SBCGLOBAL.NET

CALIFORNIA • NEVADA • GEORGIA

REQUIRES IMMEDIATE ATTENTION

VIA FACSIMILE (817-224-4515 - LoanStar) AND (866-359-1975 - Wells Fargo) AND U.S. MAIL

May 6, 2010

Wells Fargo Bank N.A.
3476 Stateview Blvd.
Fort Mill, SC 29715

First American LoanStar Trustee Services, LLC
P.O. Box 961253
Ft. Worth, TX 76161-0253

Re: Loan No. 0069780674
Robert R. Moreno and Susan A. Adcock

Dear Sir/Madam:

As Wells Fargo Home Mortgage ("Wells Fargo") and First American LoanStar Trustee Services, LLC ("LoanStar") are aware, my law office represents Robert R. Moreno and Susan A. Adcock ("Clients") with regard to their efforts to modify the above-referenced home mortgage loan.

As your records will confirm, for more than seven months I have been engaged in an effort on behalf of my Clients to have Wells Fargo discuss what possible loan modifications may be available so that they may be able to remain in their home. Notwithstanding the efforts by me and my Clients, no substantive discussion or good faith effort regarding a loan modification has been provided by Wells Fargo, which has issued a Notice of Trustee's Sale dated April 27, 2010. This Notice states that the Plaintiffs' home will be sold at public auction on May 17, 2010 at 10:00 a.m. at the San Diego County Courthouse.

PLEASE ACCEPT THIS LETTER AS PROVIDING NOTIFICATION THAT I WILL BE FILING AN EX PARTE APPLICATION AND APPEARING IN COURT ON MONDAY, MAY 10, 2010, TO REQUEST THAT A TEMPORARY RESTRAINING ORDER BE ISSUED TO STOP THE INTENDED SALE OF MY CLIENTS' HOME.

Among the grounds for seeking this ex parte relief will be the falsity of Wells Fargo's representation that the bank has contacted my Clients to "explore options for the borrower to avoid foreclosure", as required by California Civil Code §2923.5 *et seq.* In fact, Wells Fargo

Exhibit "Q"

EX. A - PAGE 059

May 6, 2010

Wells Fargo Bank N.A.

First American LoanStar Trustee Services, LLC

Page Two

has completely failed to explore any such options with my Clients. Service on Wells Fargo and LoanStar of my Clients' TRO Application and related papers will be sent under separate cover.

If Wells Fargo and/or LoanStar would like to discuss an agreement to temporarily suspend the intended sale of my Client's property on May 17, and thereby avoid my having to appear in Court on Monday, please contact me immediately.

Thank you.

Sincerely,



Newell E. Cumming, Esq.

NEC:pm

cc: Robert Moreno

PROOF OF SERVICE

Moreno, et al., v. Wells Fargo Home Mortgage, et al.
San Diego Superior Court, North County, Case No. 37-2010-00056256-CU-OR-NC

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I am employed in the County of San Diego, State of California. I am over the age of eighteen and not a party to the within action. My business address is 145 South Fig Street, Suite L, Escondido, California 92025.

On June 16, 2010, I served the following documents, described as:

ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER

NOTICE OF EX PARTE APPLICATION AND APPLICATION FOR TEMPORARY RESTRAINING ORDER

SUMMONS AND COMPLAINT WITH ATTACHMENTS

MEMORANDUM OF POINTS AND AUTHORITIES

DECLARATIONS OF SUSAN A. ADCOCK AND NEWELL E. CUMMING, ESQ.

NOTICE OF CASE ASSIGNMENT AND ADR INFORMATION

By placing true copies thereof in sealed envelopes, addressed as stated below, and delivered such envelope on the above date to the U.S. Postal Service for delivery via Registered Mail with Delivery Confirmation, and postage thereon fully prepaid.

Wells Fargo Home Mortgage
3476 Stateview Blvd.
Fort Mill, SC 29715

Lisa Spikech
First American Trustee Servicing Solutions, LLC
8 Campus Circle
Mailstop 6-2 LoanStar
Westlake, TX 76262

///

1
2
3 I am "readily familiar" with the firm's practice for the collection and processing of
4 correspondence for mailing and have confirmed that such envelope was deposited, as stated above.
5 I am aware that on motion of the party served, service is presumed invalid if the postal
6 cancellation date or postage meter date is more than one day after the date of deposit for mailing in
7 affidavit.

8 I declare under penalty of perjury under the laws of the State of California that the above is
9 true and correct.

10 Executed on June 16, 2010 at Escondido, California.

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Mavany L. Cowan

SUM-100

SUMMONS

(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

WELLS FARGO BANK HOME MORTGAGE; and FIRST
AMERICAN LOANSTAR TRUSTEE SERVICES, LLC

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

ROBERT R. MORENO and SUSAN A. ADCOCK

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): SAN DIEGO COUNTY SUPERIOR CT.

325 S. MELROSE AVE.

VISTA, CA 92081

CASE NUMBER:
(Número del Caso):

37-2010-00056256-CU-OR-NC

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

DATE: JUN 14 2010
(Fecha)

Clerk, by
(Secretario)

C. Terreros

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

- ☒ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☐ on behalf of (specify):

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

- ☐ by personal delivery on (date):

Page 1 of 1

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Newell E. Cumming, Esq. (SBN 89275) 145 South Fig Street, Suite L Escondido, Ca 92025		FOR COURT USE ONLY 2010 JUL 16 PM 3:47 CLERK OF COURT SAN DIEGO COUNTY, CA
TELEPHONE NO.: (760-747-6600 ATTORNEY FOR (Name): Robert Moreno and Susan Adcock	FAX NO.: (760)747-6644	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 325 South Melrose Drive MAILING ADDRESS: 325 South Melrose Drive CITY AND ZIP CODE: Vista, CA 92081 BRANCH NAME: North County		
CASE NAME: Robert Moreno and Susan Adcock v. Wells Fargo Home Mortgage		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		CASE NUMBER: 37-2010-00056256-CU-OR-NC JUDGE: DEPT:
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input checked="" type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	---	---

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): **3**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 6/14/2010

Newell E. Cumming

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

- NOTICE**
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
 - File this cover sheet in addition to any cover sheet required by local court rule.
 - If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
 - Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 325 S. Melrose	
MAILING ADDRESS: 325 S. Melrose	
CITY AND ZIP CODE: Vista, CA 92081	
BRANCH NAME: North County	
TELEPHONE NUMBER: (760) 201-8028	
PLAINTIFF(S) / PETITIONER(S): Robert R. Moreno	
DEFENDANT(S) / RESPONDENT(S): Susan A. Adcock	
MORENO VS. ADCOCK	
NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2010-00056256-CU-OR-NC

Judge: Earl H. Maas, III

Department: N-28

COMPLAINT/PETITION FILED: 06/14/2010

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

EXHIBIT B

Newell E. Cumming, Esq. (SBN 89275)
 LAW OFFICES OF NEWELL E. CUMMING
 145 South Fig Street, Suite L
 Escondido, CA 92025
 Tel: 760-747-6600
 Fax: 760-747-6644

Attorney for Plaintiffs Robert R. Moreno and Susan A. Adcock

FILED
 Clerk of the Superior Court
JUN 14 2010
 BY Noreen McKinlay, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO
NORTH COUNTY BRANCH

ROBERT R. MORENO, an individual, and
 SUSAN A. ADOCK, and individual;

 Plaintiff,

vs.

WELLS FARGO BANK, N.A., aka WELLS
 FARGO HOME MORTGAGE; FIRST
 AMERICAN LOANSTAR TRUSTEE
 SERVICES, LLC, AND DOES 1-10;

 Defendants.

Case No.

**NOTICE OF EX PARTE APPLICATION
 FOR TEMPORARY RESTRAINING
 ORDER, EX PARTE APPLICATION,
 MEMORANDUM OF POINTS AND
 AUTHORITIES, DECLARATIONS BY
 SUSAN ADCOCK AND NEWELL E.
 CUMMING, ESQ. AND [PROPOSED]
 ORDER TO SHOW CAUSE AND FOR
 TEMPORARY RESTRAINING ORDER**

Hearing:
 Dept:
 Judge:
 Action Filed:
 Trial Date: None set

NOTICE OF EX PARTE APPLICATION AND HEARING

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on Monday, May 10, 2010, or as soon thereafter as this matter may
 be heard, in the above-entitled Court, located at 325 South Melrose Drive, Vista, California.
 Plaintiffs **ROBERT R. MORENO and SUSAN A. ADCOCK** will and hereby does apply to

-1-

NOTICE OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER

EX. B - PAGE 067

1 the Court for the issuance of a temporary restraining order against WELLS FARGO BANK, N.A.,
 2 aka WELLS FARGO HOME MORTGAGE, and FIRST AMERICAN LOANSTAR TRUSTEE
 3 SERVICES, LLC baring these defendants from proceeding with the Trustee's sale of Plaintiffs'
 4 home on May 17, 2010.

5 This Ex Parte Application is and will be based upon this Notice of Ex Parte Application,
 6 Ex Parte Application and Memorandum of Points and Authorities, Complaint to Enjoin
 7 Foreclosure and for Declaratory Relief, Declaration by Susan A. Adcock, Declaration by Newell
 8 E. Cumming, Esq., the pleadings, records and files in this action, and on any argument that may be
 9 presented at the hearing of this matter, and on any other matter that the Court deems appropriate.
 10

11 DATED: June 14, 2010
 12 ~~May~~

LAW OFFICES OF NEWELL E. CUMMING

13 By: 
 14

15 Newell E. Cumming, Esq.
 16 Attorney for Plaintiffs Robert R. Moreno and
 17 Susan A. Adcock
 18
 19
 20
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-2-

27 NOTICE OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER

28 EX. B - PAGE 068

1 Newell E. Cumming, Esq. (SBN 89275)
 2 LAW OFFICES OF NEWELL E. CUMMING
 3 145 South Fig Street, Suite L
 4 Escondido, CA 92025
 5 Tel: 760-747-6600
 6 Fax: 760-747-6644

7 Attorney for Plaintiff's Robert R. Moreno and Susan A. Adcock

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SAN DIEGO

10 NORTH COUNTY BRANCH

11 ROBERT R. MORENO, an individual, and
 12 SUSAN A. ADOCK, and individual;

13 Plaintiff,

14 vs.

15 WELLS FARGO HOME MORTGAGE, aka
 16 WELLS FARGO BANK, N.A.; FIRST
 17 AMERICAN LOANSTAR TRUSTEE
 18 SERVICES, LLC,
 19 Defendants.

Case No.

MEMORANDUM OF POINTS &
 AUTHORITIES IN SUPPORT OF
 TEMPORARY RESTRAINING ORDER
 AND/OR PRELIMINARY INJUNCTION

Hearing:

Dept:

Judge:

Action Filed:

Trail Date: None set

FILED
 Clerk of the Superior Court

JUN 14 2010

BY Noreen McKinley, Deputy

RECEIVED

JUN 25 2010

D O S

I.

INTRODUCTION

This action was brought by Plaintiffs when their efforts to get their mortgage lender, Wells Fargo Home Mortgage ("Wells Fargo"), to provide information and a meaningful discussion regarding what loan modification options may be available to Plaintiffs proved unsuccessful.

-1-

1 As summarized below, the amount of business done last year by Plaintiffs in their
2 automobile repair business decreased as the year progressed. When their ability to make timely
3 monthly mortgage payments was adversely affected by the slow-down in their business, Plaintiffs
4 contacted Wells Fargo to discuss a possible loan modification solution. Instead of exploring
5 what workout options may be available, Defendants began their long history of responding to
6 Plaintiffs' requests by repeatedly asking Plaintiffs to supply the financial and other personal
7 information, which has been provided by Plaintiffs to Defendants at least three times.

9 More importantly, Wells Fargo has never provided to Plaintiffs any specific information
10 about what type(s) of loan modification options they would qualify for. And, no specific loan
11 modification offer has ever been made by Wells Fargo. Even after Plaintiffs' counsel was
12 retained to provide assistance, Wells Fargo has still not provided details about the options that
13 may be available, or made any effort to discuss such options. Instead, on March 15, 2010
14 Wells Fargo sent a letter addressed to Plaintiffs stating the following:
15

16 "We're writing to provide you with the results of our efforts to find a solution that
17 might help with the mortgage payment challenges you're facing. . . . Unfortunately, after
18 carefully reviewing the information you've provided, we are unable to adjust the terms of
19 your mortgage. This decision was made because you did not provide us with all of the
20 information needed within the time frame required per your trial modification period
21 workout plan. For that reason, you have not been approved for a mortgage loan
22 modification.

23 Plaintiffs do not know what the words "trial modification period workout plan" refer to, and no
24 details regarding such a "plan" have been communicated to Plaintiffs.

25 Notwithstanding numerous telephone and written communications to Wells Fargo
26 requesting the opportunity to discuss a loan modification, Plaintiffs received a Notice of Default
27 Declaration dated January 11, 2010 from First American LoanStar Trustee Services, LLC
28 ("LoanStar"), who is acting as Trustee on behalf of Wells Fargo. A true and correct copy of the

-2-

1 Notice of Default is attached to the Complaint as Exhibit "L". In that Declaration, executed by a
 2 Wells Fargo representative, it is represented that Wells Fargo has contacted my Clients to "explore
 3 options for the borrower to avoid foreclosure", as required by California Civil Code §2923.5 *et*
 4 *seq.* and/ or has exercised "due diligence to contact the borrower." However, that representation
 5 is not true, and neither of these pre-conditions has been met by Wells Fargo, as confirmed by
 6 Counsel's numerous prior communications to Defendants.
 7

8 Now, on or about April 27, 2010, Wells Fargo has issued a Notice of Trustee's Sale, which
 9 necessitated this request for the Court's assistance. The trustee's sale is set to occur next
 10 Saturday, May 15, 2010, at 10:00 a.m.

11 As mentioned above, the undersigned counsel was retained by Plaintiffs to assist with their
 12 efforts to work out a loan modification agreement whereby the Plaintiffs may keep their home and
 13 avoid foreclosure. The accompanying complaint and request for a temporary restraining order
 14 are essentially a request for the Court's assistance, by which Wells Fargo will be compelled to
 15 finally discuss, in a real and meaningful way, what options may exist so that the Plaintiffs can
 16 keep their home during this difficult financial period.
 17

18 II. FACTUAL BACKGROUND

19 Plaintiffs moved into their home at 14007 Bernabeo Court in Valley Center, California in
 20 November 2006. The mortgage lender was, and continues to be, Wells Fargo Home Mortgage
 21 (aka Wells Fargo Bank, N.A.) (collectively "Wells Fargo"), and Wells Fargo's trustee is American
 22 LoanStar Trustee Services, LLC ("LoanStar").
 23

24 Beginning in early 2009, Plaintiffs began suffering a slow-down in the amount of business
 25 that they were doing in their automobile repair business located in Valley Center, California. In
 26 June 2009, the Plaintiffs informed Wells Fargo that they were having trouble making the monthly
 27

1 mortgage payments because of a reduction in their income. The Plaintiffs also told Wells Fargo
2 that they were trying to stay in their home, and were seeking a loan modification, which would
3 enable them to remain in their home. To that end, the Plaintiffs requested, but never received,
4 information from Wells Fargo about what Loan Modification options were available.

5
6 For almost ten (10) months after their initial request, Plaintiffs have been attempting to
7 obtain from Wells Fargo information about possible loan workout arrangements which would
8 enable them to remain in their home. Notwithstanding such numerous requests by Plaintiffs and
9 their counsel, Wells Fargo has never provided any substantive information about such workout
10 options.

11 Instead, Wells Fargo has made repeated requests for the same financial information, which
12 Plaintiffs have provided to Wells Fargo at least three times. In several instances, such as after a
13 period of time that would pass without hearing back from Wells Fargo, a letter from Wells Fargo
14 would be received which again requested updated financial information. The reason for the
15 updated information being needed, according to Wells Fargo, was because the earlier financial
16 information provided by Plaintiffs had become too old, even though any delays after the
17 information was provided by Plaintiffs were caused solely by the inaction of Wells Fargo.
18

19 A detailed history, and attached exhibits of the written communications between Plaintiffs
20 and Wells Fargo, with regard to the efforts by the Plaintiffs and Counsel to obtain information
21 about a possible loan modification, is provided in Plaintiffs' Complaint, and for the sake of brevity
22 is not repeated here. In sum, Counsel's efforts to secure on behalf of Plaintiffs information about
23 loan modifications began on or about July 20, 2009, when Counsel sent a letter to Wells Fargo,
24 with the Plaintiffs' signatures, notifying it of Counsel's legal representation and authorizing Wells
25

1 Fargo to work directly with the undersigned. It became apparent that all such efforts have failed
2 when Plaintiffs received the above-described Notice of Trustee's Sale.

3 Prior to Counsel being retained, Wells Fargo had told Plaintiffs, in a letter dated July 9,
4 2009, that "the request for loan modification has been denied" because the "request would be
5 outside of your investor guidelines." After receiving that letter, Counsel was retained.

6 Notwithstanding months of effort by Plaintiffs and Counsel, including numerous telephone
7 and written communications to Wells Fargo requesting the opportunity to discuss a loan
8 modification, Plaintiffs received a Notice of Default Declaration dated January 11, 2010 from First
9 American LoanStar Trustee Services, LLC ("LoanStar"), the Trustee acting on behalf of Wells
10 Fargo. Included in the Declaration that accompanied the Notice of Default was the representation
11 by Wells Fargo that it had contacted the Plaintiffs to "explore options for the borrower to avoid
12 foreclosure", as required by California Civil Code §2923.5 *et seq.* and/ or has exercised "due
13 diligence to contact the borrower." However, neither representation is true, and neither of these
14 pre-conditions has been met by Wells Fargo, as confirmed by Counsel's numerous prior
15 communications to Defendants.
16

17 In spite of the repeated efforts by Plaintiffs and their Counsel, Wells Fargo has never
18 provided any specific information regarding what loan modification(s) may be available to the
19 Plaintiffs. Instead, as previously mentioned, the only communications from Wells Fargo were
20 the repeated requests for the same financial information, which has been provided to Wells Fargo
21 at least three times.
22

23 After receiving a copy of the Notice of Default, Counsel again wrote to Wells Fargo in a
24 letter dated February 9, 2010 to again advise Wells Fargo that it is the Plaintiffs' desire to explore
25 what loan workout options may be available. In that letter, Counsel also advised Wells Fargo
26

1 that because of its failure to explore in good faith any loan modification possibilities, it is the
2 intention of Plaintiffs to seek injunctive relief against Wells Fargo if the underlying default is
3 pursued by Defendants without determining what loan modifications options may be available to
4 Plaintiffs. Notwithstanding this notification to Wells Fargo, the Defendants have still not
5 provided any meaningful discussion regarding this subject. Although it is unknown to Plaintiffs
6 what the underlying reason is as to why Wells Fargo has never provided detailed information
7 regarding what loan modifications may be available. From the Plaintiffs perspective, it appears
8 that the Defendants are dysfunctional in its dealings with financially struggling homeowners, even
9 to the point of becoming engaged in bad faith conduct.

11 As one example of the fruitless, and frustrating, conduct by Wells Fargo in response to
12 Plaintiffs' efforts, a series of three letters, all dated March 1, 2010, were received by Plaintiffs
13 from Wells Fargo. One of these letters thanked Plaintiffs (i.e., their Counsel) for "taking the time
14 to speak with us today." The letter went on to say that Wells Fargo values the Plaintiffs as
15 customers, but needs "additional financial information to determine what option is best suited for
16 [Plaintiffs'] situation." In a second letter of that date, Wells Fargo advised Plaintiffs that their
17 information has been forwarded to the Loss Mitigation/Collections department for review. A
18 third letter, also dated March 1, 2010, was sent by LoanStar confirming that the information sent
19 by Plaintiffs has been forwarded to Wells Fargo for "review and response."

21 Finally, after Counsel's efforts to have a substantive telephone conversation with a Wells
22 Fargo representative, at least with regard to learning of the status of their request for a loan
23 modification, Wells Fargo sent a letter dated March 15, 2010, wherein the following was stated:

25 "Unfortunately, after carefully reviewing the information you provided, we are
26 unable to adjust the terms of your mortgage. This decision was made because you did not
27 provide us with all the information needed within the time frame required per your initial

-6-

1 trial modification period workout plan. For that reason, you have not been approved for a
2 mortgage loan modification."

3 In that Plaintiffs have never been offered by Wells Fargo any information regarding a "trial
4 modification period workout plan," it is unclear as to what this reference by Defendants refers.
5 A true and correct copy of this letter from Wells Fargo is attached to the Complaint as Exhibit
6 "O".

7 As if to further frustrate the Plaintiffs, about one month later Wells Fargo sent a letter,
8 dated April 16, 2010, to Counsel wherein Wells Fargo states that they "were previously advised
9 that the above referenced mortgagor has retained your office to represent them," and asks that
10 The letter that asks that Counsel "confirm that your office still represents the mortgagor(s)." A
11 true and correct copy of this letter from Wells Fargo is attached to the Complaint as Exhibit "P".
12 Shortly after receiving this letter, Plaintiffs received Wells Fargo's Notice of Trustee's Sale, dated
13 April 27, 2010. A true and correct copy of this letter from Wells Fargo is attached to the
14 Complaint as Exhibit "Q".
15

16 In filing their Complaint and accompanying request for a temporary restraining order,
17 Plaintiffs acknowledge that the Defendants are not obligated to provide a loan modification that is
18 unreasonable, or unfair to either Wells Fargo or the Plaintiffs. However, Plaintiffs do argue that
19 the Defendants are under an obligation to act in good faith and fair dealing with regard to
20 Plaintiffs' request for consideration of a possible loan workout, and in this regard, have failed to
21 comply with California law.
22

23 III.

24 A TEMPORARY RESTRAINING ORDER IS APPROPRIATE IN THIS MATTER

1 A temporary restraining order ("TRO") is appropriate as an interim measure by the Court
2 to prevent great or irreparable injury to the Plaintiffs pending the hearing on an application for a
3 preliminary injunction. (Code of Civil Proc. ("CCP") §527(c) (*Biasca v. Superior Court* (1924)
4 194 C 366).

5 Under California law, California homeowners with secured loans made between January 1,
6 2003 and December 31, 2007 must first be provided by the trustee or beneficiary the opportunity
7 for a meet and confer with the homeowner to assess his/her financial situation and explore options
8 to avoid foreclosure. (California Mortgages, Deeds of Trust, and Foreclosure Litigation, Fourth
9 Ed., Bernhardt, Roger, at §7.25 *et seq.*, CEB Publication, 2010) In the present case, no
10 meaningful or good faith effort has been made by Defendants to meet and confer with Plaintiffs,
11 or to discuss what loan modification options may be available to the Plaintiffs.

12 The Court is empowered to issue provisional relief, including a temporary restraining order
13 and/or a preliminary injunction, when the plaintiff alleges that great and irreparable injury will
14 result from the sale of the property, and in compensation of such injury money damages are
15 inadequate and/or very difficult to ascertain. (CCP §526(a), *et seq.*)

16 It is well established law that real property is considered unique, and therefore money
17 damages may be inadequate as a remedy for the loss of such property through foreclosure. The
18 presumption of uniqueness under Civil Code ("CC") §3387 is conclusive for single-family
19 residences, such as Plaintiffs' home. (California Mortgages, Deeds of Trust, and Foreclosure
20 Litigation, *id.*, at §7.27).

21 Civil Code §3422 authorizes injunction relief to prevent the breach of an obligation when,
22 inter alia, pecuniary compensation would not afford adequate relief or where money damages are
23 inadequate or difficult to ascertain. In addition, relief is appropriate when, as in the present
24 instance, the foreclosure sale should not proceed until Defendants have complied with California
25 law. (California Mortgages, Deeds of Trust, and Foreclosure Litigation, *id.*, at §7.25).

1 A party may seek to enjoin a trustee's sale based upon either a challenge to the claim itself,
 2 or upon a challenge to the trustee's collections procedures, as in the instant case. (*Crummer v.*
 3 *Whitehead*, (1964) 230 CA2d 264) Among the grounds for enjoining a trustee's sale, at least
 4 through a temporary restraining order, is a claim by Plaintiffs that the Defendants failed to adhere
 5 to the required procedural steps, including failing to explore and/or discuss in good faith what
 6 options may be available to prevent this foreclosure. As mentioned above, Wells Fargo stated in
 7 its Declaration that it had "explored options for the borrower to avoid foreclosure", as required by
 8 California Civil Code §2923.5 *et seq.* This representation by Wells Fargo is not true. Instead,
 9 the Defendants have failed, for reasons unknown to Plaintiffs or their Counsel, to first provide
 10 Plaintiffs with an opportunity for a meet and confer with Defendants to assess the Plaintiffs'
 11 financial situation and to explore options to avoid foreclosure. As a result of Wells Fargo's
 12 failure to do so, as well as its false representation, Plaintiffs are now requesting that the Court stay
 13 the intended sale of the property until Wells Fargo complies with California law.

16 III.

17 CONCLUSION

18 For the foregoing reasons, Plaintiffs respectfully request that the Court issue a temporary
 19 restraining order which will prevent the Plaintiffs from suffering irreparable harm that would
 20 result from the sale of their home without first having the opportunity to discuss with the
 21 Defendants a possible loan modification. Although it is presently unknown why Defendants
 22 failed to discuss or follow through with Plaintiffs' multiple requests for loan modification options,
 23 it is hoped that the accompanying Complaint and supporting documents will cause Defendants to

24 ///

1 meet and confer in good faith with Plaintiffs and take reasonable steps to provide information
2 about what options may be available.

3 Respectfully submitted,

4
5 DATED: June 14, 2010

LAW OFFICES OF NEWELL E. CUMMING

6
7 By: 

8 Newell E. Cumming, Esq.
9 Attorney for Plaintiffs Robert R. Moreno and
10 Susan A. Adcock
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1 Newell E. Cumming, Esq. (SBN 89275)
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5 Tel: 760-747-6600
6 Fax: 760-747-6644

7 Attorney for Plaintiffs Robert R. Moreno and Susan A. Adcock

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN DIEGO
10 NORTH COUNTY BRANCH

11 ROBERT R. MORENO, an individual, and
12 SUSAN A. ADCOCK, an individual;

13 Plaintiffs

14 vs.

15 WELLS FARGO BANK, N.A., aka WELLS
16 FARGO BANK HOME MORTGAGE; FIRST
17 AMERICAN LOANSTAR TRUSTEE
18 SERVICES, LLC; and DOES 1-25;

19 Defendants

DECLARATION OF SUSAN A. ADCOCK
IN SUPPORT OF COMPLAINT FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

20
21 DECLARATION OF SUSAN A. ADCOCK

22 I, Susan A. Adcock, declare:

- 23 1. I am over the age of eighteen and have personal knowledge of the following facts. If
24 called upon to testify to such facts, I could and would competently do so.
25

26 -1-

27
28 DECLARATION BY SUSAN A. ADCOCK

FILED
Clerk of the Superior Court

JUN 14 2010

BY Noreen McKinley, Deputy

- 1 2. I am the married spouse of Robert R. Moreno. My husband and I live together in our
2 home at 14007 Bernabeo Court, Valley Center, California, in the County of San Diego.
3 After our initial efforts to determine what loan modification options may be available to us,
4 my husband and I decided to retain the Law Offices of Newell E. Cumming ("Counsel") to
5 assist with our attempt to modify our existing mortgage, such that we would be able to
6 remain in our home. Remaining in our home is important to my husband and me not
7 only because we very much like our home, but also because my husband has done
8 much to improve our residence.
9
- 10 3. The reason we needed to obtain a loan modification relates to a slow-down beginning in
11 early 2009 in my husband's automobile repair business located in Valley Center,
12 California. Specifically, in July 2009, we informed Wells Fargo that we were having
13 trouble making the monthly mortgage payments because of a reduction in our income.
14 We also told Wells Fargo that we prefer to obtain a loan modification which would enable
15 us to remain in our home. To that end, we requested information from Wells Fargo about
16 what Loan Modification options were available.
17
- 18 4. In response to our early requests for information regarding a loan modification, Wells
19 Fargo responded to us by letter dated July 9, 2009, in which it was stated simply that "the
20 request for loan modification has been denied" because the "request would be outside of
21 your investor guidelines." A true and correct copy of this letter from Wells Fargo is
22 attached hereto as Exhibit "A", and by this reference is incorporated into and made a part
23 of this complaint. After receiving the July 9, 2009 response described above, we decided
24 to retain Counsel to assist with our efforts to obtain a Loan Modification. Attorney
25 Newell Cumming has represented my husband's business since about 2004.
26

27 -2-

- 1
2 5. Since about July 2009, our Counsel has been aggressively trying to find out and discuss
3 with Wells Fargo information about possible loan modifications. With our consent, on
4 or about July 20, 2009, Counsel sent written notification to Wells Fargo advising them that
5 we had retained an attorney in this matter. This would be the beginning of a long and
6 frustrating effort by us and our attorney to have a substantive conversation with a Wells
7 Fargo representative regarding the options that may be available for modifying our loan.
8
9 6. For approximately two months after the above-described letter was sent by Counsel
10 advising Wells Fargo of the legal representation, we received no response from the bank.
11 Finally, in late September 2009, a letter was received from Wells Fargo confirming that
12 they are able to discuss the our mortgage loan with Counsel.
13
14 7. As Counsel and Wells Fargo representatives would exchange written communications or
15 talk on the telephone, our attorney would keep us informed of his efforts and Wells Fargo's
16 responses. Although we had already provided Wells Fargo with the requested financial
17 information before Counsel was retained, we provided additional information to Wells
18 Fargo, as they requested. For example, in Counsel's letter dated October 14, 2009,
19 additional financial information regarding our monthly income and expenses, and monthly
20 account statements, was forwarded to Wells Fargo.
21
22 8. Notwithstanding the efforts by me and my husband, and our attorney, we received a letter
23 from Wells Fargo, dated January 7, 2010, which had been sent to only us and not our
24 attorney. In this letter, Wells Fargo advised us that our mortgage has been referred "to
25 our attorney with instructions to begin foreclosure proceedings." Wells Fargo also stated
26 that the entire balance is due and payable to Wells Fargo. About one week later, Wells
27

1 Fargo sent another letter, dated January 15, 2010, which was essentially similar to the
2 earlier form letters sent by the bank. In this letter, Wells Fargo acknowledged that the
3 Plaintiffs are in "active review [sic] our Loss Mitigation/Collections department to
4 determine which workout options are available for the [Plaintiffs'] loan." In this
5 same letter, Wells Fargo also stated, apparently in response to a prior letter from Counsel,
6 that Wells Fargo would like to offer their regrets that they "did not meet [our]
7 servicing expectations." Wells Fargo also noted in this letter that "the review process
8 may be time consuming and we thank you for your cooperation, patience, and willingness
9 to provide us with the necessary information to fully complete our review."
10

11 9. In spite of our efforts, including numerous telephone and written communications to Wells
12 Fargo requesting the opportunity to discuss a loan modification, we received a Notice of
13 Default Declaration dated January 11, 2010 from First American LoanStar Trustee
14 Services, LLC ("LoanStar"), who is acting as Trustee on behalf of Wells Fargo. A true
15 and correct copy of the Notice of Default is attached hereto as Exhibit "L". In that
16 Declaration, executed by a Wells Fargo representative, it is represented that Wells Fargo
17 has contacted us to "explore options for the borrower to avoid foreclosure", as required by
18 California Civil Code §2923.5 *et seq.* and/ or has exercised "due diligence to contact the
19 borrower." However, this representation is not true, and to the best of my knowledge,
20 neither of these pre-conditions has been met by Wells Fargo, as confirmed by Counsel's
21 numerous prior communications to Defendants. Wells Fargo has never provided any
22 specific information to us regarding what loan modification(s) may be available.
23 Instead, the only communications from Wells Fargo were the repeated requests for the
24 same financial information, which has been provided to Wells Fargo at least three times.
25
26

27 -4-

10. After receiving a copy of the Notice of Default, Counsel again wrote to Wells Fargo in a letter dated February 9, 2010. In this letter, Counsel again advised Wells Fargo that it is our desire to explore what loan workout options may be available. Counsel also again stated that we very much want to remain in our home, and it is for that reason that Counsel was retained to attempt to facilitate a loan modification that would be acceptable to both parties, and which would enable us to keep our home. To further emphasize the efforts we had been making to work out an arrangement that would allow them to keep our home, Counsel reminded Wells Fargo that over a period of more than seven months numerous letters have been written requesting a meaningful discussion regarding information about loan modification options for us. However, even after months of effort by us and our attorney, Wells Fargo has never provided this information.


11. On or about we received a letter dated March 15, 2010 from Wells Fargo, wherein it was stated that:

"Unfortunately, after carefully reviewing the information you provided, we are unable to adjust the terms of your mortgage. This decision was made because you did not provide us with all the information needed within the time frame required per your initial trial modification period workout plan. For that reason, you have not been approved for a mortgage loan modification."

In that we have never been offered by Wells Fargo any information regarding a "trial modification period workout plan," it is unclear as to what this reference means. . A true and correct copy of this letter from Wells Fargo is attached hereto as Exhibit "O".

Shortly after receiving this letter, Plaintiffs received Wells Fargo's Notice of Trustee's Sale, dated April 27, 2010. A true and correct copy of this letter from Wells Fargo is attached hereto as Exhibit "O".

1 12. I declare, under the penalty of perjury under the laws of the State of California, that the
2 foregoing is true and correct, and that this declaration was executed May __, 2010, at
3 Escondido, California.
4

5 

6 Susan A. Adcock, Declarant
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JUN 14 2010

BY Noreen McKinley, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO
NORTH COUNTY BRANCH

DECLARATION OF NEWELL E. CUMMING, ESQ. IN SUPPORT OF COMPLAINT FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

EX. B - PAGE 085

2. I am a California attorney employed by the Law Offices of Newell E. Cumming, PC, and am the counsel of record for Plaintiffs Robert R. Moreno ("Moreno") and Susan A. Adcock (collectively "Plaintiffs") in the above-entitled action. My law office has been representing Moreno and his company Automotive Specialists, LLC in various legal matters since approximately 2004.
3. In early 2009, I was advised by Plaintiffs that they were experiencing a slow-down in the amount of business that they were doing in their automobile repair business located in Valley Center, California. I was also advised by Plaintiffs that they had informed Wells Fargo Bank N.A. ("Wells Fargo"), their mortgage company, that they were having trouble making the monthly mortgage payments because of a reduction in their income, and that they would like to know what types of loan modifications may be available to them so that they would be able to remain in their home, as they preferred. To that end, I was advised by the Plaintiffs that they had specifically requested this information from Wells Fargo, but had not received any substantive response. Instead, in response to the Plaintiffs' request for information regarding a loan modification, Wells Fargo responded that the request for a loan modification was denied" because the "request would be outside of [Plaintiffs'] investor guidelines." A true and correct copy of this letter from Wells Fargo is attached hereto as Exhibit "A".
4. After receiving the July 9, 2009 response described above, Plaintiffs retained my office to assist with their efforts to obtain a loan modification. On or about July 20, 2009, I sent Wells Fargo written notification advising them that the Plaintiffs had retained counsel in

1 this matter. A true and correct copy of this letter from me to Wells Fargo is attached
 2 hereto as Exhibit "B".

- 3
 4 5. For approximately two months after the above-described letter of representation was sent,
 5 no response was received from Wells Fargo. Eventually, a letter dated September 24,
 6 2009 was received from Wells Fargo confirming that they had received my letter and were
 7 therefore able to discuss the Plaintiffs' mortgage loan with me.. However, after stating
 8 in the letter that Wells Fargo is providing information regarding this matter, the letter
 9 goes on to state the following:

11 "Thank you for taking the time to write us regarding [the Plaintiffs']
 12 situation and the expected difficulties they face in keeping their loan current.
 13 Regrettably, only the representatives in our Collections Department have the
 14 specialized training and authority to establish workout arrangements. Due to
 15 the time sensitive nature of these arrangements, Wells Fargo Home Mortgage
 16 requires that all workout options first be discussed over the telephone with a
 17 Collections representative. Therefore, it is imperative for you or the homeowners
 18 to call our Collections Department to determine what options are available to
 19 assist you in preventing their loan from going farther into default."

20 Upon receipt of this letter, which is attached hereto as Exhibit "C", and by this reference is
 21 incorporated into and made a part of this complaint, I began what would become a lengthy
 22 and ultimately fruitless effort to have a substantive conversation with a Wells Fargo
 23 representative regarding the options that may be available for my clients to modify their
 24 loan.

- 25 6. During the days immediately following receipt of the above-described September 24, 2009
 26 letter from Wells Fargo, I contacted Wells Fargo and had several telephone
 27 conversations with its representative. Although the Plaintiffs had already provided Wells
 28

-3-

1 Fargo with the requested financial information before I was retained, Wells Fargo again
2 requested Plaintiffs' financial information about the Plaintiffs was requested by Wells
3 Fargo. In response to the request, I forwarded to Wells Fargo the requested information, as
4 confirmed in my letter of October 14, 2009. The additional financial information included
5 the Plaintiffs' monthly income and expenses, and monthly bank account statements. A
6 true and correct copy of this letter from me to Wells Fargo is attached hereto as Exhibit
7 "D".
8

- 9 7. Approximately one month later, Plaintiffs received a letter from Wells Fargo dated
10 November 15, 2009, which was a form-type letter which simply notified Plaintiffs that
11 they were past due in their mortgage payments. A true and correct copy of this letter
12 from me to Wells Fargo to me is attached hereto as Exhibit "E", and by this reference
13 is incorporated into and made a part of this complaint. The next correspondence to be
14 received by my office from Wells Fargo was dated December 10, 2009, which was
15 essentially the same letter as sent by Wells Fargo on or about September 24, 2009,
16 described above. In this letter, Wells Fargo once again said that I should contact Wells
17 Fargo, but this time the letter instructed that I contact the Loss Mitigation/Collections
18 Department, which I did. A true and correct copy of this letter from Wells Fargo to
19 me is attached hereto as Exhibit "F". On the day after their December 10 letter, Wells
20 Fargo wrote another letter to my office, dated December 11, 2009. In this letter, Wells
21 Fargo stated the following:
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24 "We were previously advised that the above referenced mortgagor has
25 retained your office to represent them. Please confirm that your office still
26 represents the mortgagor(s)."

27 -4-

1 A true and correct copy of this letter from Wells Fargo to me is attached hereto as Exhibit
2 "G".

3 8. After receipt of Wells Fargo's December 11, 2009 letter, I contacted Wells Fargo and
4 talked to a "Natalie" in the Loss Mitigation Department on or about December 16, 2009.
5 Similar to Wells Fargo's prior requests, Natalie said that the Plaintiffs would have to again
6 send the requested financial information. Natalie was unable to confirm whether Wells
7 Fargo had received the information previously sent by me two months earlier in October
8 2009. Natalie also informed me that Wells Fargo required (again) a signature from the
9 Plaintiffs confirming that I do represent the Plaintiffs. Pursuant to the requests from
10 Natalie, I sent Wells Fargo a letter on or about December 21, 2009 with updated
11 financial information about the Plaintiffs, including copies of Plaintiffs' balance sheets,
12 profit and loss statements, and current pay stubs, as well as another signature by Moreno.
13 In the letter's conclusion, I confirmed that Natalie had represented that after reviewing the
14 enclosed information Wells Fargo would contact me to discuss the available Loan
15 Modifications. A true and correct copy of this letter from me to Wells Fargo is attached
16 hereto as Exhibit "H".

17 9. As of January 4, 2010, no response was received from Wells Fargo, and no effort was
18 made by Wells Fargo to contact Plaintiffs or my office. Not having heard back from
19 Wells Fargo, I sent the bank a follow-up letter. In this January 4 letter, I expressed the
20 frustration with Wells Fargo's repeated requests for the same information, even after the
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27 DECLARATION BY NEWELL E. CUMMING, ESQ.

28 EX. B - PAGE 089

1 information had been submitted several times, and the failure of Wells Fargo to contact
 2 either Plaintiffs or their counsel. In the letter, I wrote the following:

3 "Even after complying with Wells Fargo's repeated requests for the same
 4 information, [Counsel] still has not been contacted by your bank so that a meaningful and
 5 substantive discussion can be had to determine which loan modification options are
 6 available to" Plaintiffs.

7 The letter concludes with the following statement:

8 "As such, it is imperative that Wells Fargo contact [Counsel] without delay so that
 9 [the Plaintiffs] can determine what options are available to ensure that they remain in their
 10 home."

11 A true and correct copy of this letter from me to Wells Fargo is attached hereto as Exhibit
 12 "I".

- 13 10. Two days after I sent my January 4, 2010 letter, another letter was received from Wells
 14 Fargo, dated January 7, 2010. In this letter, which was sent to only the Plaintiffs, Wells
 15 Fargo advised the Plaintiffs that their mortgage has been referred "to our attorney with
 16 instructions to begin foreclosure proceedings." As is customary in such letters, Wells
 17 Fargo also stated that the entire balance is due and payable to Wells Fargo. A true and
 18 correct copy of the Wells Fargo letter dated January 7, 2010 is attached hereto as Exhibit
 19 "J". About one week later, Wells Fargo sent another letter, dated January 15, 2010,
 20 which was essentially similar to the earlier form letters sent by the bank. In this letter,
 21 Wells Fargo acknowledged that the Plaintiffs are in "active review [sic] our Loss
 22 Mitigation/Collections department to determine which workout options are available for
 23 the [Plaintiffs'] loan." Oddly, in the same letter, Wells Fargo also stated, apparently in
 24 response to a prior letter from me, that Wells Fargo would like to offer their regrets that

1 they "did not meet [Plaintiffs'] servicing expectations." Wells Fargo also noted in this
2 letter that "the review process may be time consuming and we thank you for your
3 cooperation, patience, and willingness to provide us with the necessary information to fully
4 complete our review." A true and correct copy of the Wells Fargo letter dated January
5 14, 2010 is attached hereto as Exhibit "K".

- 6 11. Notwithstanding numerous telephone and written communications to Wells Fargo
7 requesting the opportunity to discuss a Loan Modification, Plaintiffs received a Notice of
8 Default Declaration dated January 11, 2010 from First American LoanStar Trustee
9 Services, LLC ("LoanStar"), who is acting as Trustee on behalf of Wells Fargo. A true
10 and correct copy of the Notice of Default is attached hereto as Exhibit "L", and by this
11 reference is incorporated into and made a part of this complaint. In that Declaration,
12 executed by a Wells Fargo representative, it is represented that Wells Fargo has contacted
13 my Clients to "explore options for the borrower to avoid foreclosure", as required by
14 California Civil Code §2923.5 *et seq.* and/ or has exercised "due diligence to contact the
15 borrower." However, that representation is not true, and neither of these pre-conditions
16 has been met by Wells Fargo, as confirmed by my numerous prior communications to
17 Defendants. Notwithstanding the repeated efforts by Plaintiffs and me, Wells Fargo has
18 never provided any specific information regarding what loan modification(s) may be
19 available to the Plaintiffs. Instead, the only communications from Wells Fargo were the
20 repeated requests for the same financial information, which has been provided to Wells
21 Fargo at least three times.
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12. After receiving a copy of the Notice of Default, I again wrote to Wells Fargo in a letter dated February 9, 2010. In this letter, I advised Wells Fargo that it is the Plaintiffs' desire to explore what loan workout options may be available. I also again stated that the Plaintiffs very much want to remain in their home, and it is for that reason that my office was retained to attempt to facilitate a loan modification that would be acceptable to both parties, and which would enable these homeowners to remain in their home. To further emphasize the efforts Plaintiffs were making to work out an arrangement that would allow them to keep their home, I also reminded Wells Fargo that over a period of more than seven months numerous letters have been written requesting a meaningful discussion regarding Loan Modification options for the Plaintiffs. In my February 9 letter, I noted that I had already written letters to Wells Fargo on July 20, 2009, July 29, 2009, September 11, 2009, October 14, 2009, November 23, 2009, December 21, 2009, and January 4, 2010. I further referenced the various telephone discussions I had with different Wells Fargo representatives. For example, as describe above, on or about December 16, 2009 I talked to a Natalie in Wells Fargo's Loss Mitigation/Collections Department. During the conversation with her, I was told that after Wells Fargo receives the additional information requested, Plaintiffs will be contacted with information about the possible types of mortgage modifications. However, even after months of effort by Plaintiffs and their attorney, Wells Fargo has never provided information about what specific types of Loan Modifications may be available to the Plaintiffs. Given the failure of Wells Fargo to properly respond to the Plaintiffs requests for Loan Modification options, it appeared to my that Wells Fargo was engaged in acts of bad faith by their failure to deal with Plaintiffs

1 in any meaningful and/or substantive way. This fact became apparent when Plaintiffs
2 received the Notice of Default without ever learning from Wells Fargo about possible loan
3 workout solutions. In my February 9 letter, Me also advised Wells Fargo that because of
4 its failure to explore in good faith any loan modification possibilities, it is the intention of
5 Plaintiffs to seek injunctive relief against Wells Fargo if the underlying default is pursued
6 by Defendants without determining what loan modifications options may be available to
7 Plaintiffs. Notwithstanding this notification to Wells Fargo, the Defendants have still not
8 provided any meaningful discussion regarding this subject. A true and correct copy of
9 my letter of February 9, 2010 to Wells Fargo is attached hereto as Exhibit "M".
10

- 11 13. Following my February 9, 2010 letter described above, Plaintiffs received additional letters
12 from Wells Fargo. One of these letters, dated March 1, 2010, Wells Fargo thanked the
13 Plaintiffs (i.e. their attorney) for "taking the time to speak with us today." The letter
14 went on to say that Wells Fargo values the Plaintiffs as customers, but needs "additional
15 financial information to determine what option is best suited for [Plaintiffs'] situation."
16 Wells Fargo also sent another letter, of the same March 1, 2020 date. This letter was
17 identical to earlier Wells Fargo letters wherein it was stated that the Plaintiffs' information
18 has been forwarded to the Loss Mitigation/Collections Department for their review. A
19 third letter, also dated March 1, 2010, was sent by LoanStar confirming that the
20 information sent by Plaintiffs has been forwarded to Wells Fargo for "review and
21 response." True and correct copies of these three letters from Defendants are
22 collectively attached hereto as Exhibit "N".
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1 14. On the same date as the letters in Exhibit "N" were written by Defendants, I talked by
2 telephone to several Wells Fargo representatives. One of these representatives, Heather
3 Duffy, advised me that her records indicated that the Plaintiffs' request for a Loan
4 Modification is "not in active review at this time." Ms. Duffy was unable to explain why
5 this was so. In an effort to learn why the Plaintiffs' request for a Loan Modification
6 was not being actively reviewed, I also talked to two other Wells Fargo representatives.
7 One of these individuals, by the name of Linda, was in Wells Fargo's Loss
8 Mitigation/Collections Department. Linda stated that she was not sure why the Plaintiffs'
9 request was not in active review. In another telephone conversation with a third Wells
10 Fargo individual, by the name of Kris, I was advised that the Loan Modification requests
11 can sometimes take up to sixty (60) days. I informed this individual that the Plaintiffs
12 efforts had actually been ongoing for many months, but nothing further of help was
13 offered during the conversation.
14

15 15. After my unsuccessful efforts to have a telephone conversation with a Wells Fargo
16 representative who could be of assistance, at least in advising the Plaintiffs of the status of
17 their request for a Loan Modification, a letter dated March 15, 2010 was received by
18 Plaintiffs. In this letter, Wells Fargo stated the following:
19

20 "Unfortunately, after carefully reviewing the information you provided, we are
21 unable to adjust the terms of your mortgage. This decision was made because you did not
22 provide us with all the information needed within the time frame required per your initial
23 trial modification period workout plan. For that reason, you have not been approved for a
24 mortgage loan modification."

25 In that Plaintiffs have never been offered by Wells Fargo any information regarding a "trial
26 modification period workout plan," it is unclear as to what this reference by Defendants

27 -10-

28 DECLARATION BY NEWELL E. CUMMING, ESQ.

EX. B - PAGE 094

1 refers. A true and correct copy of this letter from Wells Fargo is attached hereto as
2 Exhibit "O".

3 16. About one month after the Wells Fargo letter of March 15, I received another letter from
4 Defendants, this one dated April 16, 2010. In this letter, Wells Fargo states that they
5 "were previously advised that the above referenced mortgagor has retained your office to
6 represent them." The letter that asks that I "confirm that your office still represents the
7 mortgagor(s)." Shortly after receiving this letter, Plaintiffs received Wells Fargo's
8 Notice of Trustee's Sale, dated April 27, 2010, which stated that the Plaintiffs' home would
9 be sold at public auction on May 17, 2010 ("Sale"). A true and correct copy of the
10 Notice of Sale is attached hereto as Exhibit "P".
11

12
13 17. Upon receiving the Notice of Sale, I sent a letter to Wells Fargo and LoanStar, on or about
14 May 6, 2010, advising them of my clients' intention to seek a temporary restraining order
15 and/or preliminary injunction to stop the intended sale. Included with the letter was a
16 copy of Plaintiffs' complaint and relating filings. A true and correct copy of my letter is
17 attached hereto as Exhibit "Q". In response to this letter, a Lisa Spikech ("Spikech") from
18 LoanStar sent an email dated May 10, 2010 stating that the Sale was being "postponed for
19 two weeks for Wells Fargo to review the complaint in regards to the loan modification."
20 The communication from Spikech also stated that the sale was being "postponed to 6/01/10
21 ...with the understanding that Wells Fargo will provide an update no later than 5/26/10 and
22 if they do not, you will need to take action in the filing of the Ex Parte application for [sic]
23 TRO. Thank you for your consideration in not filing the Ex Parte for TRO today." A
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1 true and correct copy of this communication from LoanStar is also attached hereto as
2 Exhibit "Q".

3 18. After receiving Exhibit "Q" from LoanStar, I heard nothing further from either Wells
4 Fargo or LoanStar until I began additional attempts to find out the status of Wells Fargo's
5 "review of the complaint in regards to the loan modification." Finally, after leaving
6 several telephone messages, I received an email from Spikech dated June 3, 2010 stating
7 that the Sale was scheduled for June 15, 2010 "per the client [i.e. Wells Fargo] to allow
8 time for review of the file." A true and correct copy of this communication from
9 LoanStar is attached hereto as Exhibit "R". In response to this LoanStar communication,
10 I sent an email to Spikech the same day, June 3. In that communication I advised Spikech
11 that I would in Atlanta, Georgia on other business until the evening of June 14, the day
12 before the scheduled Sale, and was therefore requesting a further postponement of the Sale.
13 A copy of this communication is also included within Exhibit "R".

14
15
16 19. As has repeatedly occurred, as the days grew closer to the scheduled June 15 Sale date
17 approached, I again attempted to learn what Wells Fargo's review had determined and what
18 was the intention of that defendant regarding the upcoming Sale. After not hearing
19 anything back from either LoanStar or Wells Fargo, I sent a follow-up email on or about
20 June 8, 2010 asking about the status of this matter. In this communication, I advised
21 Spikech that nothing had been heard by Plaintiffs, and that I had a conflicting trip to
22 Atlanta. In response to my inquiry, Spikech wrote via email also dated June 3, 2010
23 stating that
24

25 ///

1 "At this time, I do not have any updates to offer you. As of today, the sale is scheduled
2 for 06/15/10 at 10:00 a.m. I would like to be able to provide something, but they [i.e.,
3 Wells Fargo] have also made some changes and the contacts that I had have been
4 transferred to other areas."

5 Apparently, LoanStar, in its role as Wells Fargo's trustee, has had as much difficulty
6 getting responses from Wells Fargo as I had had. As the date of my trip out of town
7 neared, additional efforts were made to postpone the Sale. As a result of my insistence,
8 Spikech made further efforts to contact Wells Fargo. As a follow-up communication,
9 Spikech wrote to me that she had


10 "spoke to Vanessa at Wells Fargo in regards to any contact from the debtor. She claims
11 that the debtor has not contacted them, but they do have an LOA to speak with you [i.e.,
12 Counsel]. In order to request a postponement of a sale for a loan modification, you or
13 your client will need to contact them at [telephone number] for any resolution."

14 20. I went to Atlanta the next day, June 9, without hearing anything further from Wells Fargo
15 or LoanStar. In between my Atlanta meetings and work regarding other clients, I made
16 numerous telephone calls to Wells Fargo using the suggested number, and spoke to three
17 different individuals. Each of these persons said either they did not have the authority to
18 postpone the Sale and/or they would need to see updated financials from the Plaintiffs to
19 consider a postponement of the Sale. By the conclusion of these out-of-town telephone
20 conversations, I came to the realization that after months and months of effort in this
21 matter, I was continuing to experience the same dead-ends and unsuccessful efforts get
22 Wells Fargo to provide a substantive discussion with the Plaintiffs regarding about what
23 loan modification options, if any, may be available to them. As a final effort to avoid
24

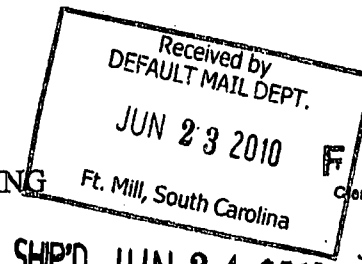
1 asking for the Court's assistance, I attempted to contact Spikech on the morning of June 14,
2 2010, but could only leave a telephone message.

3 21. After almost ten (10) months of efforts by the Plaintiffs and me, Wells Fargo has never
4 provided Plaintiffs with information about possible types of loan modifications. In the
5 Notice of Default Declaration referenced above, a Wells Fargo representative states that
6 the bank has contacted Plaintiffs to "explore options for the borrower to avoid
7 foreclosure", as required by California Civil Code §2923.5 *et seq.* and/ or has exercised
8 "due diligence to contact the borrower." Wells Fargo has done neither of these. As a
9 result, Plaintiffs are now asking, via this complaint and related filings, for the Court's
10 assistance.
11

12
13 I declare, under the penalty of perjury under the laws of the State of California, that the
14 foregoing is true and correct, and that this declaration was executed June 14, 2010, at Escondido,
15 California.
16

17
18 
19 Newell E. Cumming, Declarant
20

Newell E. Cumming, Esq. (SBN 89275)
 LAW OFFICES OF NEWELL E. CUMMING
 145 South Fig Street, Suite L
 Escondido, CA 92025
 Tel: 760-747-6600
 Fax: 760-747-6644



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 0069780674

FILED
 Clerk of the Superior Court

JUN 14 2010

SHIP'D JUN 24 2010

BY: Noreen McKinley, Deputy

Attorney for Plaintiff's Robert R. Moreno and Susan A. Adock

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO
NORTH COUNTY BRANCH

D Brennan
 #95280

ROBERT R. MORENO, an individual, and
 SUSAN A. ADOCK, and individual;

Case No.

Plaintiffs,

**PROPOSED ORDER TO SHOW CAUSE
 AND TEMPORARY RESTRAINING
 ORDER**

vs.

RECEIVED
 JUN 25 2010
DOS

WELLS FARGO HOME MORTGAGE, aka
 WELLS FARGO BANK, N.A.; FIRST
 AMERICAN LOANSTAR TRUSTEE
 SERVICES, LLC, and DOES 1-25,

Hearing:
 Dept:
 Judge:
 Action Filed:
 Trial Date: None set

Defendants.

Good cause appearing in Plaintiffs' Notice of Ex Parte Application, Ex Parte Application, supporting Memorandum of Points and Authorities, Complaint, supporting declarations, and it appearing that this is a proper case for issuance of an order to show cause and a temporary restraining order; and that unless a temporary restraining order issues, Plaintiffs will suffer irreparable injury before the matter can be heard on notice:

1 IT IS HEREBY ORDERED that Defendants WELLS FARGO BANK N.A., aka WELLS
 2 FARGO HOME MORTGAGE; and FIRST AMERICAN LOANSTAR TRUSTEE SERVICES,
 3 LLC, (collectively "Defendants") appear on July 16, 2010, in Department
 4 28 of the above-titled Court, located at 325 South Melrose, Vista, California 92081, to
 5 show cause why a preliminary injunction should not be issued enjoining Defendants from selling
 6 or attempting to sell, or causing to be sold, the trust property described in the Complaint on file in
 7 this action either under the power of sale in the deed of trust or by foreclosure action.

9 IT IS FURTHER ORDERED that, pending the hearing on the order to show cause,
 10 Defendants, Defendant's agents, officers, employees, partners, successors, and representatives; all
 11 persons acting in concert or participating with them; and each of them are hereby restrained and
 12 enjoined from selling, attempting to sell, or causing to be sold the trust property described in the
 13 Complaint on file in this action either under the power of sale in the deed of trust or by foreclosure
 14 action.

16 IT IS FURTHER ORDERED that a copy of the Complaint is a proper cause of issuance of
 17 an order to show cause and a temporary restraining order; and that, unless a temporary restraining
 18 order issues, Plaintiffs will suffer irreparable injury before the matter can be heard on notice.

19 IT IS FURTHER ORDERED that a copy of the Ex Parte Application, Complaint,
 20 Memorandum of Points and Authorities, supporting declarations, and a copy of this order to show
 21 cause and temporary restraining order, be served on Defendants no later than 6/14/10

22 2010 by Fax, with service by Registered mail by 6/21/10.
 23 Plaintiff shall deposit \$6,000.00 with the clerk of the
 24 IT IS SO ORDERED. Court as a condition precedent to the
 25 order taking effect.

26 DATED: 6/14/10

27 
 JUDGE OF THE SUPERIOR COURT

JUDGE EARL MAAS

1 *Robert R. Moreno and Susan A. Adcock v. Wells Fargo Bank, et al*
2 United States District Court for the Southern District of California,

3 **PROOF OF SERVICE**
4 **STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

5 I am employed in the County of San Diego; I am over the age of eighteen years and not
6 a party to the within entitled action; my business address is 501 West Broadway, 19th Floor,
7 San Diego, California 92101-3598.

8 On July 14, 2010, I served the following document(s) described
9 as:

10 **DEFENDANT WELLS FARGO BANK, N.A.'S**
11 **NOTICE OF REMOVAL**

12 on the interested party(ies) in this action by placing true copies thereof enclosed in sealed
13 envelopes and/or packages addressed as follows:

14 Newell E. Cumming, Esq.
15 Law Offices of Newell E. Cumming
16 145 South Fig Street, Suite L
17 Escondido, California 92025
18 Telephone: (760) 747-6600
19 Facsimile: (760) 747-6644
20 E-Mail: neclaw@sbcglobal.net

Attorneys for Plaintiffs ROBERT R. MORENO
and SUSAN A. ADCOCK

21 T. Robert Finlay, Esq.
22 Nicole K. Neff, Esq.
23 Wright, Finlay & Zak, LLP
24 4665 MacArthur Court, Suite 280
25 Newport Beach, California 92660
26 Telephone: (949) 477-5050
27 Facsimile: (949) 477-9200
28 E-Mail: rfinlay@wrightlegal.net;
nneff@wrightlegal.net

Attorneys for Defendant FIRST AMERICAN
LOANSTAR TRUSTEE SERVICES, LLC

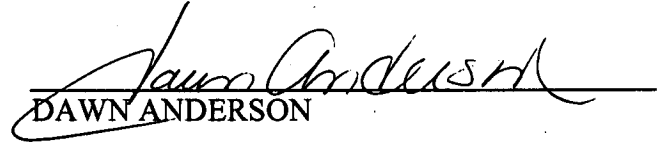
☒ **BY OVERNIGHT DELIVERY:** I served such envelope or package to be delivered on
the same day to an authorized courier or driver authorized by the overnight service carrier
to receive documents, in an envelope or package designated by the overnight service
carrier.

☐ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and
processing correspondence for mailing. Under that practice it would be deposited with the
U.S. postal service on that same day with postage thereon fully prepaid at San Diego,
California in the ordinary course of business. I am aware that on motion of the party served,
service is presumed invalid if postal cancellation date or postage meter date is more than one
day after date of deposit for mailing in affidavit.

1 ☒

FEDERAL: I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on **July 14, 2010**, at San Diego, California.

4
5 
6 DAWN ANDERSON

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

Robert R. Moreno: Susan A. Adcock

Wells Fargo Home Mortgage First American Loanstar Trustee
Services, LLC

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

Attorneys (If Known)

Sheppard, Mullin, Richter & Hampton LLP

Erik S. Bliss (184954)

501 West Broadway, 19th Floor

San Diego, California 92101-3598

Telephone: (619) 368-6500

JLS BGS

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff
(For Diversity Cases Only) and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes				
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input checked="" type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609					

(Place an "X" in One Box Only)

☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1441(b); 28 U.S.C. § 1332(a)

Brief description of cause:

Declaratory and injunctive relief.

☐ CHECK IF THIS IS A CLASS ACTION DEMAND UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

(See instructions):

JUDGE

DOCKET NUMBER

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

July 14, 2010

Erik S. Bliss:

FOR OFFICE USE ONLY

7114/10 B14

RECEIPT #

AMOUNT \$350

APPLYING IFP

JUDGE

MAG. JUDGE

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS015836
Cashier ID: bhartman
Transaction Date: 07/14/2010
Payer Name: AMERICAN MESSENGER SERVICE

CIVIL FILING FEE

For: MORENO V WELLS FARGO HOME
Case/Party: D-CAS-3-10-CV-001467-001
Amount: \$350.00

CHECK

Check/Money Order Num: 6716
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.